

Authorised Version No. 215
Environment Protection Act 1970
No. 8056 of 1970

Authorised Version incorporating amendments as at
16 December 2020

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Authorised Version No. 215
Environment Protection Act 1970

No. 8056 of 1970

Authorised Version incorporating amendments as at
16 December 2020

An Act to establish an Environment Protection Authority, to
make Provision with respect to the Powers, Duties, and
Functions of that Authority, to make further Provision for the
Protection of the Environment and for other Purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):

Part I—Introduction

New Pt 1
(Heading)
inserted by
No. 10160
s. 4(a).

1 Short title and commencement

- (1) This Act may be cited as the **Environment Protection Act 1970**.
- (2) The several provisions of this Act shall come into operation on a day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the Government Gazette.

Environment Protection Act 1970
No. 8056 of 1970
Part I—Introduction

S. 1(3)
amended by
Nos 8823
s. 3(2), 9207
s. 8, 9803
s. 5(2)(a),
10092 s. 16(2),
repealed by
No. 10160
s. 4(b).

* * * * *

S. 1A
inserted by
No. 7/2001
s. 3.

1A Purpose of Act

- (1) The purpose of this Act is to create a legislative framework for the protection of the environment in Victoria having regard to the principles of environment protection.
- (2) The principles of environment protection are set out in sections 1B to 1L.
- (3) It is the intention of Parliament that in the administration of this Act regard should be given to the principles of environment protection.

S. 1B
inserted by
No. 7/2001
s. 3.

1B Principle of integration of economic, social and environmental considerations

- (1) Sound environmental practices and procedures should be adopted as a basis for ecologically sustainable development for the benefit of all human beings and the environment.
- (2) This requires the effective integration of economic, social and environmental considerations in decision making processes with the need to improve community well-being and the benefit of future generations.
- (3) The measures adopted should be cost-effective and in proportion to the significance of the environmental problems being addressed.

1C The precautionary principle

- (1) If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- (2) Decision making should be guided by—
 - (a) a careful evaluation to avoid serious or irreversible damage to the environment wherever practicable; and
 - (b) an assessment of the risk-weighted consequences of various options.

S. 1C
inserted by
No. 7/2001
s. 3.

1D Principle of intergenerational equity

The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

S. 1D
inserted by
No. 7/2001
s. 3.

1E Principle of conservation of biological diversity and ecological integrity

The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision making.

S. 1E
inserted by
No. 7/2001
s. 3.

1F Principle of improved valuation, pricing and incentive mechanisms

- (1) Environmental factors should be included in the valuation of assets and services.
- (2) Persons who generate pollution and waste should bear the cost of containment, avoidance and abatement.
- (3) Users of goods and services should pay prices based on the full life cycle costs of providing the goods and services, including costs relating to the use of natural resources and the ultimate disposal of wastes.

S. 1F
inserted by
No. 7/2001
s. 3.

- (4) Established environmental goals should be pursued in the most cost effective way by establishing incentive structures, including market mechanisms, which enable persons best placed to maximise benefits or minimise costs to develop solutions and responses to environmental problems.

S. 1G
inserted by
No. 7/2001
s. 3.

1G Principle of shared responsibility

- (1) Protection of the environment is a responsibility shared by all levels of Government and industry, business, communities and the people of Victoria.
- (2) Producers of goods and services should produce competitively priced goods and services that satisfy human needs and improve quality of life while progressively reducing ecological degradation and resource intensity throughout the full life cycle of the goods and services to a level consistent with the sustainability of biodiversity and ecological systems.

S. 1H
inserted by
No. 7/2001
s. 3.

1H Principle of product stewardship

Producers and users of goods and services have a shared responsibility with Government to manage the environmental impacts throughout the life cycle of the goods and services, including the ultimate disposal of any wastes.

S. 1I
inserted by
No. 7/2001
s. 3.

1I Principle of wastes hierarchy

Wastes should be managed in accordance with the following order of preference—

- (a) avoidance;
- (b) re-use;
- (c) re-cycling;
- (d) recovery of energy;
- (e) treatment;

- (f) containment;
- (g) disposal.

1J Principle of integrated environmental management

S. 1J
inserted by
No. 7/2001
s. 3.

If approaches to managing environmental impacts on one segment of the environment have potential impacts on another segment, the best practicable environmental outcome should be sought.

1K Principle of enforcement

S. 1K
inserted by
No. 7/2001
s. 3.

Enforcement of environmental requirements should be undertaken for the purpose of—

- (a) better protecting the environment and its economic and social uses;
- (b) ensuring that no commercial advantage is obtained by any person who fails to comply with environmental requirements;
- (c) influencing the attitude and behaviour of persons whose actions may have adverse environmental impacts or who develop, invest in, purchase or use goods and services which may have adverse environmental impacts.

1L Principle of accountability

S. 1L
inserted by
No. 7/2001
s. 3.

- (1) The aspirations of the people of Victoria for environmental quality should drive environmental improvement.
- (2) Members of the public should therefore be given—
 - (a) access to reliable and relevant information in appropriate forms to facilitate a good understanding of environmental issues;
 - (b) opportunities to participate in policy and program development.

Pt 1 (Heading)
repealed by
No. 10160
s. 4(c).

* * * * *

S. 2
amended by
No. 10261
s. 4(a).

2 Application of Act

S. 2(1)
substituted by
No. 49/2000
s. 9.

(1) This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

S. 2(2)
inserted by
No. 10261
s. 4(b),
substituted by
No. 20/1988
s. 4(a),
amended by
No. 62/2005
s. 142.

(2) This Act does not apply to a radiation source within the meaning of the **Radiation Act 2005** unless a condition of pollution or an environmental hazard has arisen or is likely to arise.

3 Extra-territorial application of Act

S. 3(1A)
inserted by
No. 10092 s. 4.

(1) This Act extends to and applies to and in relation to the territorial seas adjacent to the coasts of Victoria.

(1A) This Act extends to and applies to the discharge of waste to the River Murray from any premises situated in Victoria and extends to and applies in relation to any licence issued or proceedings brought in relation to such discharge.

(2) Where the provisions of this Act or of any regulations or orders made under this Act are inconsistent with any of the provisions of any other Act, or of any regulations, by-laws, or other laws made under any other Act the provisions of this Act or of the regulations or orders made under this Act shall prevail.

4 Definitions

(1) In this Act unless inconsistent with the context or subject-matter—

accreditation means accreditation granted under section 26B;

S. 4(1) def. of *accredited licensee* inserted by No. 20/1994 s. 13(1)(a), substituted as def. of *accreditation* by No. 61/2006 s. 3(a).

* * * * *

S. 4(1) def. of *Administrative Appeals Tribunal* inserted by No. 9/1987 s. 9(Sch. 3 item 5.1), repealed by No. 52/1998 s. 311(Sch. 1 item 27.1(a)).

amend includes to add, delete, discharge or vary;

S. 4(1) def. of *amend* inserted by No. 87/1989 s. 4(a).

analysis includes the taking of a sample or any test, measurement, calculation or examination made for the purpose of determining the characteristics of any matter or substance or the effects of any discharge, emission or deposit of waste or any emission of noise upon any segment of the environment;

S. 4(1) def. of *analysis* amended by No. 9207 s. 2, substituted by No. 10261 s. 5(a)(i).

analyst means a person appointed under this Act as an analyst for the purposes of this Act;

S. 4(1) def. of *analyst* substituted by No. 10092 s. 5(1)(a).

Environment Protection Act 1970
No. 8056 of 1970
Part I—Introduction

S. 4(1) def. of
Authority
repealed by
No. 51/2017
s. 27(1).

* * * * *

authorized means authorized in writing by the
Authority either generally or specially;

S. 4(1) def. of
*authorized
officer*
substituted by
No. 10092
s. 5(1)(b).

authorized officer means a person appointed
under this Act as an authorized officer for
the purposes of this Act;

S. 4(1) def. of
*banned
plastic bag*
inserted by
No. 27/2019
s. 4(1).

banned plastic bag means—

- (a) a bag, other than an exempt plastic bag—
 - (i) with handles; and
 - (ii) that comprises, either wholly or partly, plastic, whether or not that plastic is biodegradable, degradable or compostable; and
 - (iii) that has a thickness of 35 micrometres or less at any part of the bag; or
- (b) a prescribed banned plastic bag;

S. 4(1) def. of
barrier bag
inserted by
No. 27/2019
s. 4(1).

barrier bag means a bag that—

- (a) comprises, either wholly or partly, plastic; and
- (b) does not have handles; and
- (c) is used to carry unpackaged perishable food;

Barwon South West Waste and Resource Recovery Group means the Waste and Resource Recovery Group established for the Barwon South West Waste and Resource Recovery Region;

S. 4(1) def. of *Barwon South West Waste and Resource Recovery Group* inserted by No. 20/2014 s. 3(1).

Barwon South West Waste and Resource Recovery Region means the region that consists of the municipal districts of the following councils—

S. 4(1) def. of *Barwon South West Waste and Resource Recovery Region* inserted by No. 20/2014 s. 3(1).

- (a) Borough of Queenscliffe Council;
- (b) Colac-Otway Shire Council;
- (c) Corangamite Shire Council;
- (d) Glenelg Shire Council;
- (e) Greater Geelong City Council;
- (f) Moyne Shire Council;
- (g) Southern Grampians Shire Council;
- (h) Surf Coast Shire Council;
- (i) Warrnambool City Council;

beneficial use means a use of the environment or any element or segment of the environment which—

S. 4(1) def. of *beneficial use* amended by No. 8823 s. 2(1)(a), substituted by No. 10092 s. 5(1)(c).

- (a) is conducive to public benefit, welfare, safety, health or aesthetic enjoyment and which requires protection from the effects of waste discharges, emissions or deposits or of the emission of noise; or
- (b) is declared in State environment protection policy to be a beneficial use;

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S. 4(1) def. of
Board
repealed by
No. 9512
s. 2(1).

* * * * *

S. 4(1) def. of
*certificate of
environmental
audit*
inserted by
No. 87/1989
s. 4(b).

certificate of environmental audit means a certificate issued by an environmental auditor certifying that the condition of the segment of the environment specified in the certificate is not or is not potentially detrimental to any beneficial use of that segment;

S. 4(1) def. of
Chairman
inserted by
No. 10092
s. 5(1)(d),
repealed by
No. 51/2017
s. 27(2).

* * * * *

S. 4(1) def. of
*chemical
substance*
inserted by
No. 9803 s. 2.

chemical substance means any organic or inorganic substance, whether liquid, solid or gaseous, used for any commercial, industrial or domestic purpose because of its chemical properties;

S. 4(1) def. of
classified area
repealed by
No. 10160
s. 4(d).

* * * * *

S. 4(1) def. of
clean up
inserted by
No. 20/1988
s. 5(a),
amended by
No. 87/1989
s. 4(c).

clean up includes any measures—

- (a) to remove, disperse, destroy, dispose of, abate, neutralize or treat any pollutant, waste, substance, environmental hazard or noise; and
- (b) to restore the environment to a state as close as practicable to the state it was in immediately before—
 - (i) the discharge of any pollutant, waste or substance; or

- (ii) the creation of an environmental hazard; or
- (iii) the emission of noise; and
- (c) to restore the environment to a state specified in a notice by the end of the time specified in the notice; and
- (d) to assess the nature and extent of the damage and risk caused by any pollutant, waste, substance, environmental hazard or noise; and
- (e) to take any measurement, recording or sample or to prepare any report, plan, drawing or other document, or to make any inspection, calculation, test or analysis or do anything that may be specified in the notice; and
- (f) to retain any consultant, contractor, expert, agency or person at the cost of the occupier or person required to comply with the notice or otherwise for the purpose of taking any clean up measures specified in the notice; and
- (g) to determine the most appropriate action to take in relation to the measures set out in paragraphs (a), (b), (c), (d), (e) and (f);

contravene includes breach, fail, neglect or refuse to comply with;

S. 4(1) def. of *contravene* inserted by No. 87/1989 s. 4(d).

corrupt conduct has the meaning given in section 4 of the **Independent Broad-based Anti-corruption Commission Act 2011**;

S. 4(1) def. of *corrupt conduct* inserted by No. 82/2012 s. 174, amended by No. 82/2012 s. 308(a).

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S. 4(1) def. of
council
inserted by
No. 61/2006
s. 43,
amended by
No. 9/2020
s. 390(Sch. 1
item 34.1).

council means a Council within the meaning of
section 3(1) of the **Local Government Act
2020**;

S. 4(1) def. of
Council
substituted by
No. 10092
s. 5(1)(e),
repealed by
No. 65/1996
s. 24(1).

* * * * *

S. 4(1) def. of
*delegated
agency*
inserted by
No. 10160
s. 4(e).

delegated agency means any protection agency to
which any power or function of the
Authority is delegated under section 68;

S. 4(1) def. of
deposit
inserted by
No. 37/2002
s. 38(1).

deposit, in relation to litter, means the act of
parting with the possession of the litter;

S. 4(1) def. of
element
amended by
No. 10092
s. 5(1)(f).

element in relation to the environment means any
of the principal constituent parts of the
environment including waters, atmosphere,
land, vegetation, climate, sound, odour,
aesthetics, fish and wildlife;

S. 4(1) def. of
environment
amended by
No. 10092
s. 5(1)(g).

environment means the physical factors of the
surroundings of human beings including the
land, waters, atmosphere, climate, sound,
odours, tastes, the biological factors of
animals and plants and the social factor of
aesthetics;

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*	*	*	*	*	
					S. 4(1) def. of <i>Environment and Resource Efficiency Plan</i> inserted by No. 61/2006 s. 34, repealed by No. 20/2014 s. 14(2).
					S. 4(1) def. of <i>environmental audit</i> inserted by No. 87/1989 s. 4(e).
					S. 4(1) def. of <i>environmental auditor</i> inserted by No. 87/1989 s. 4(e).
					S. 4(1) def. of <i>environmental hazard</i> inserted by No. 10261 s. 5(a)(ii), substituted by No. 20/1988 s. 4(b).
					S. 4(1) def. of <i>environmental management system</i> inserted by No. 20/1994 s. 13(1)(b).

S. 4(1) def. of
*exempt
plastic bag*
inserted by
No. 27/2019
s. 4(1).

exempt plastic bag means a bag that comprises,
either wholly or partly, plastic that—

- (a) is a barrier bag; or
- (b) is an integral part of the packaging in
which goods are sealed or provided for
sale; or
- (c) is a prescribed exempt plastic bag;

S. 4(1) def. of
fee unit
inserted by
No. 87/1989
s. 19(a),
substituted by
No. 10/2004
s. 14.

fee unit means a fee unit calculated in accordance
with section 5(3) of the **Monetary Units Act
2004**;

S. 4(1) def. of
*financial
institution*
inserted by
No. 20/1994
s. 3(1)(a),
amended by
Nos 37/1999
s. 58(Sch. 3
item 5),
11/2001
s. 3(Sch.
item 23.1).

financial institution means—

- * * * * *
- (b) an authorised deposit-taking institution
within the meaning of the Banking Act
1959 of the Commonwealth; or
 - (c) a body that was a society within the
meaning of the Friendly Societies
(Victoria) Code immediately before the
transfer date within the meaning of the
**Financial Sector Reform (Victoria)
Act 1999** or is a friendly society for the
purposes of the Life Insurance Act
1995 of the Commonwealth; or
 - (d) a financial corporation within the
meaning of section 8 of the
Commonwealth Financial Corporations
Act 1974 which is registered under
category D, E, F or G of that Act; or
 - (e) a financial institution, or a financial
institution which is a member of a class
of financial institutions, declared for the
purposes of this definition by Order of

the Governor in Council made on the recommendation of the Authority and published in the Government Gazette;

fuel burning equipment means—

- (a) any machine, engine, generator, vessel, dredge, railway locomotive or crane;
- (b) any furnace, boiler, fireplace, oven, retort, kiln, incinerator, open fire or chimney; or
- (c) any other apparatus, device, mechanism or structure—

in the operation of which fuel or other combustible material is or is to be used or which is or is to be used in or in connection with the burning of fuel or other combustible material, but does not include a motor vehicle;

S. 4(1) def. of *fuel burning equipment* inserted by No. 10092 s. 5(1)(h).

Gippsland Waste and Resource Recovery Group means the Waste and Resource Recovery Group established for the Gippsland Waste and Resource Recovery Region;

S. 4(1) def. of *Gippsland Waste and Resource Recovery Group* inserted by No. 20/2014 s. 3(1).

Gippsland Waste and Resource Recovery Region means the region that consists of the municipal districts of the following councils—

- (a) Bass Coast Shire Council;
- (b) Baw Baw Shire Council;
- (c) East Gippsland Shire Council;
- (d) Latrobe City Council;

S. 4(1) def. of *Gippsland Waste and Resource Recovery Region* inserted by No. 20/2014 s. 3(1).

- (e) South Gippsland Shire Council;
- (f) Wellington Shire Council;

S. 4(1) def. of
*Goulburn
Valley Waste
and Resource
Recovery
Group*
inserted by
No. 20/2014
s. 3(1).

Goulburn Valley Waste and Resource Recovery Group means the Waste and Resource Recovery Group established for the Goulburn Valley Waste and Resource Recovery Region;

S. 4(1) def. of
*Goulburn
Valley Waste
and Resource
Recovery
Region*
inserted by
No. 20/2014
s. 3(1).

Goulburn Valley Waste and Resource Recovery Region means the region that consists of the municipal districts of the following councils—

- (a) Campaspe Shire Council;
- (b) Greater Shepparton City Council;
- (c) Mitchell Shire Council;
- (d) Moira Shire Council;
- (e) Murrindindi Shire Council;
- (f) Strathbogie Shire Council;

S. 4(1) def. of
*Grampians
Central West
Waste and
Resource
Recovery
Group*
inserted by
No. 20/2014
s. 3(1).

Grampians Central West Waste and Resource Recovery Group means the Waste and Resource Recovery Group established for the Grampians Central West Waste and Resource Recovery Region;

S. 4(1) def. of
*Grampians
Central West
Waste and
Resource
Recovery
Region*
inserted by
No. 20/2014
s. 3(1).

Grampians Central West Waste and Resource Recovery Region means the region that consists of the municipal districts of the following councils—

- (a) Ararat Rural City Council;
- (b) Ballarat City Council;
- (c) Central Goldfields Shire Council;

- (d) Golden Plains Shire Council;
- (e) Hepburn Shire Council;
- (f) Hindmarsh Shire Council;
- (g) Horsham Rural City Council;
- (h) Moorabool Shire Council;
- (i) Northern Grampians Shire Council;
- (j) Pyrenees Shire Council;
- (k) West Wimmera Shire Council;
- (l) Yarrambiack Shire Council;

greenhouse gas substance means—

- (a) carbon dioxide, methane, nitrous oxide or sulphur hexafluoride, whether in a gaseous or liquid state; or
- (b) a hydrofluorocarbon or a perfluorocarbon, whether in a gaseous or liquid state, that is specified in regulations made under the National Greenhouse and Energy Reporting Act 2007 of the Commonwealth;

S. 4(1) def. of *greenhouse gas substance* inserted by No. 54/2010 s. 66(a).

groundwater means any water contained in or occurring in a geological structure or formation or an artificial land fill;

S. 4(1) def. of *ground-water* inserted by No. 10092 s. 5(1)(h).

highway means—

- (a) any street, road, lane, bridge, thoroughfare or other place open to or used by members of the public for passage by motor vehicles; and
- (b) any public car park;

S. 4(1) def. of *highway* inserted by No. 10092 s. 5(1)(h), amended by No. 127/1986 s. 102(Sch. 4 item 8.1(a)).

S. 4(1) def. of
IBAC
inserted by
No. 82/2012
s. 174,
amended by
No. 82/2012
s. 308(b).

IBAC means the Independent Broad-based Anti-corruption Commission established under section 12 of the **Independent Broad-based Anti-corruption Commission Act 2011**;

S. 4(1) def. of
IBAC
personnel
inserted by
No. 82/2012
s. 174.

IBAC personnel has the same meaning as it has in the **Victorian Inspectorate Act 2011**;

S. 4(1) def. of
industrial
plant
inserted by
No. 10092
s. 5(1)(h).

industrial plant means—

- (a) any plant or equipment used for the manufacturing, processing, handling, transport, storage or disposal of materials (including raw materials, materials in the process of manufacture, manufactured materials, by-products and waste materials) in or in connection with any trade, industry or process; or
- (b) any plant or equipment of a prescribed class or description—

but does not include fuel burning equipment or a motor vehicle;

S. 4(1) def. of
industrial
waste
inserted by
No. 10261
s. 5(a)(iii).

industrial waste means—

- (a) any waste arising from commercial, industrial or trade activities or from laboratories; or
- (b) any waste containing substances or materials which are potentially harmful to human beings or equipment;

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S. 4(1) def. of *industrial waste management policy* inserted by No. 10261 s. 5(a)(iii), repealed by No. 37/2002 s. 9(a).

* * * * *

S. 4(1) def. of *land* repealed by No. 10092 s. 5(1)(i).

licence means a licence issued under this Act;

S. 4(1) def. of *licence* substituted by No. 10092 s. 5(1)(j).

litter includes any solid or liquid domestic or commercial waste, refuse, debris or rubbish and, without limiting the generality of the above, includes any waste glass, metal, plastic, paper, fabric, wood, food, soil, sand, concrete or rocks, abandoned vehicles, abandoned vehicle parts and garden remnants and clippings, but does not include any gases, dust or smoke or any waste that is produced or emitted during, or as a result of, any of the normal operations of the mining, building or manufacturing industry or of any primary industry;

S. 4(1) def. of *litter* inserted by No. 37/2002 s. 38(1).

litter authority includes—

- (a) the Authority;
- (b) any other body created by or under an Act;
- (c) any government department;
- (d) any municipal council;

S. 4(1) def. of *litter authority* inserted by No. 37/2002 s. 38(1), amended by No. 53/2017 s. 13(1).

- (e) any protection agency;
- (f) any body declared by Order of the Governor in Council under section 45C to be a litter authority;
- (g) the Secretary, being the body corporate established by Part 2 of the **Conservation, Forests and Lands Act 1987**;

S. 4(1) def. of *litter enforcement officer* inserted by No. 37/2002 s. 38(1), amended by Nos 43/2011 s. 21, 37/2014 s. 10(Sch. item 56.1(b)), 68/2016 s. 162, 53/2017 s. 13(2), 40/2019 s. 100.

litter enforcement officer means—

- (a) an authorized officer;
- (b) in relation to any land or waters in a council's municipal district, an officer of the council appointed by the council as a litter enforcement officer;
- (c) in relation to—
 - (i) land or waters under the control or management of a litter authority;
or
 - (ii) any offence that may result in litter appearing on any such land or waters (regardless of where the offence occurs)—

an officer of the litter authority appointed by it as a litter enforcement officer;

- (d) a police officer;
- (da) in relation to a designated place within the meaning of the **Victoria Police Act 2013** or the vicinity of such a place—a protective services officer appointed under the **Victoria Police Act 2013** who is on duty at that designated place;

- (db) in relation to any land or waters managed under a relevant law (within the meaning of the **Conservation, Forests and Lands Act 1987**) a person appointed under Part 3 of the **Game Management Authority Act 2014**;
- (e) in relation to any bus, tram, watercraft, rail vehicle or aircraft that is being used for a public purpose, a person appointed as a litter enforcement officer by the litter authority that owns or manages that vehicle;
- (f) a person appointed as an authorised officer under Part 3 of the **Victorian Fisheries Authority Act 2016** for the purpose of this Act;
- (g) a person appointed by the Secretary, being the body corporate established by Part 2 of the **Conservation, Forests and Lands Act 1987**, as a litter enforcement officer in respect of any land managed under a relevant law within the meaning of that Act;

Local Government Waste Forum means a body established under section 49B;

S. 4(1) def. of ***Local Government Waste Forum*** inserted by No. 20/2014 s. 3(1).

Loddon Mallee Waste and Resource Recovery Group means the Waste and Resource Recovery Group established for the Loddon Mallee Waste and Resource Recovery Region;

S. 4(1) def. of ***Loddon Mallee Waste and Resource Recovery Group*** inserted by No. 20/2014 s. 3(1).

S. 4(1) def. of
*Loddon
Mallee Waste
and Resource
Recovery
Region*
inserted by
No. 20/2014
s. 3(1).

***Loddon Mallee Waste and Resource Recovery
Region*** means the region that consists of the
municipal districts of the following
councils—

- (a) Buloke Shire Council;
- (b) Gannawarra Shire Council;
- (c) Greater Bendigo City Council;
- (d) Loddon Shire Council;
- (e) Macedon Ranges Shire Council;
- (f) Mildura Rural City Council;
- (g) Mount Alexander Shire Council;
- (h) Swan Hill Rural City Council;

S. 4(1) def. of
*metropolitan
council*
inserted by
No. 61/2006
s. 43,
repealed by
No. 20/2014
s. 14(3).

* * * * *

S. 4(1) def. of
*metropolitan
districts*
inserted by
No. 53/1992
s. 5,
repealed by
No. 20/2014
s. 3(2).

* * * * *

S. 4(1) def. of
*Metropolitan
Local
Governments'
Waste Forum*
inserted by
No. 61/2006
s. 43,
repealed by
No. 20/2014
s. 14(4).

* * * * *

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*	*	*	*	*	S. 4(1) def. of <i>metropolitan Melbourne</i> inserted by No. 61/2006 s. 43, repealed by No. 20/2014 s. 14(4).
<i>Metropolitan Waste and Resource Recovery Group</i> means the Waste and Resource Recovery Group established for the Metropolitan Waste and Resource Recovery Region;					S. 4(1) def. of <i>Metropolitan Waste and Resource Recovery Group</i> inserted by No. 20/2014 s. 3(1).
<i>Metropolitan Waste and Resource Recovery Region</i> means the region that consists of the municipal districts of the following councils—					S. 4(1) def. of <i>Metropolitan Waste and Resource Recovery Region</i> inserted by No. 20/2014 s. 3(1).
(a) Banyule City Council;					
(b) Bayside City Council;					
(c) Boroondara City Council;					
(d) Brimbank City Council;					
(e) Cardinia Shire Council;					
(f) Casey City Council;					
(g) Darebin City Council;					
(h) Frankston City Council;					
(i) Glen Eira City Council;					
(j) Greater Dandenong City Council;					
(k) Hobsons Bay City Council;					
(l) Hume City Council;					
(m) Kingston City Council;					
(n) Knox City Council;					

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- (o) Manningham City Council;
- (p) Maribyrnong City Council;
- (q) Maroondah City Council;
- (r) Melbourne City Council;
- (s) Melton Shire Council;
- (t) Monash City Council;
- (u) Moonee Valley City Council;
- (v) Moreland City Council;
- (w) Mornington Peninsula Shire Council;
- (x) Nillumbik Shire Council;
- (y) Port Phillip City Council;
- (z) Stonnington City Council;
- (za) Whitehorse City Council;
- (zb) Whittlesea City Council;
- (zc) Wyndham City Council;
- (zd) Yarra City Council;
- (ze) Yarra Ranges Shire Council;

S. 4(1) def. of
*Metropolitan
Waste and
Resource
Recovery
Strategic Plan*
inserted by
No. 61/2006
s. 43,
repealed by
No. 20/2014
s. 14(4).

* * * * *

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* * * * *

S. 4(1) def. of *Metropolitan Waste Management Group* inserted by No. 61/2006 s. 43, repealed by No. 20/2014 s. 14(4).

monitoring programme means all actions taken and equipment used for the purpose of detecting or measuring quantitatively or qualitatively the presence amount or level of any substance, characteristic, or effect;

* * * * *

S. 4(1) def. of *motor boat* inserted by No. 10092 s. 5(1)(k), substituted by No. 52/1988 s. 161(Sch. 6 item 2.1), repealed by No. 65/2010 s. 420(Sch. 3 item 6.2(b)).

* * * * *

S. 4(1) def. of *motor car* inserted by No. 10092 s. 5(1)(k), repealed by No. 127/1986 s. 102(Sch. 4 item 8.1(b)).

motor vehicle has the same meaning as in the **Road Safety Act 1986**;

S. 4(1) def. of *motor vehicle* inserted by No. 127/1986 s. 102(Sch. 4 item 8.1(b)).

S. 4(1) def. of
municipal waste
inserted by
No. 37/2002
s. 9(c).

municipal waste means any waste arising from municipal or residential activities, and includes waste collected by, or on behalf of, a municipal council, but does not include any industrial waste;

S. 4(1) def. of
National Environment Protection Council
inserted by
No. 10/1995
s. 69.

National Environment Protection Council means the National Environment Protection Council established by section 8 of the **National Environment Protection Council (Victoria) Act 1995**;

S. 4(1) def. of
national environment protection measure
inserted by
No. 10/1995
s. 69.

national environment protection measure means a national environment protection measure made under section 14(1) of the **National Environment Protection Council (Victoria) Act 1995**;

S. 4(1) def. of
new vehicle
inserted by
No. 87/1989
s. 4(f).

new vehicle means a vehicle that has not been owned by anyone other than a vehicle—

- (a) manufacturer or assembler; or
- (b) importer or exporter; or
- (c) dealer—

in his, her or its capacity as a manufacturer, assembler, importer, exporter or dealer;

S. 4(1) def. of
noise
inserted by
No. 10092
s. 5(1)(k).

noise includes vibration;

S. 4(1) def. of
noise control officer
inserted by
No. 10092
s. 5(1)(k),
repealed by
No. 10261
s. 5(c).

* * * * *

North East Waste and Resource Recovery Group means the Waste and Resource Recovery Group established for the North East Waste and Resource Recovery Region;

S. 4(1) def. of *North East Waste and Resource Recovery Group* inserted by No. 20/2014 s. 3(1).

North East Waste and Resource Recovery Region means the region that consists of the municipal districts of the following councils—

S. 4(1) def. of *North East Waste and Resource Recovery Region* inserted by No. 20/2014 s. 3(1).

- (a) Alpine Shire Council;
- (b) Benalla Rural City Council;
- (c) Falls Creek Alpine Resort Management Board;
- (d) Indigo Shire Council;
- (e) Mansfield Shire Council;
- (f) Mount Hotham Alpine Resort Management Board;
- (g) Mount Buller and Mount Stirling Alpine Resort Management Board;
- (h) Towong Shire Council;
- (i) Wangaratta Rural City Council;
- (j) Wodonga City Council;

notifiable chemical means a chemical—

- (a) for which the Authority has certified that there is not available and accessible in Victoria a satisfactory facility for the destruction or disposal of the chemical or the nature of the chemical is such that the location, storage or handling of which may cause an environmental hazard; and

S. 4(1) def. of *notifiable chemical* inserted by No. 10261 s. 5(a)(iv), amended by No. 87/1989 s. 4(g)(i)(ii).

(b) which is prescribed or declared to be a notifiable chemical;

S. 4(1) def. of *occupier* substituted by No. 10092 s. 5(1)(l).

occupier in relation to any premises includes a person who is in occupation or control of the premises whether or not that person is the owner of the premises and in relation to premises different parts of which are occupied by different persons means the respective persons in occupation or control of each part;

S. 4(1) def. of *owner* repealed by No. 10092 s. 5(1)(l).

* * * * *

S. 4(1) def. of *ozone-depleting substance* inserted by No. 30/1989 s. 3, amended by No. 7/2001 s. 15.

ozone-depleting substance means any chlorofluorocarbon, halon, hydrochlorofluorocarbon or any other substance prescribed to be an ozone-depleting substance;

S. 4(1) def. of *permit* inserted by No. 10261 s. 5(a)(v), substituted by No. 48/1988 s. 40(2)(a).

permit means—

- (a) a permit to transport prescribed waste or prescribed industrial waste issued under Part IXA; and
- (b) a permit to construct, install or alter a septic tank system issued under Part IXB;

S. 4(1) def. of *person who undertakes the scheduled activity* inserted by No. 61/2006 s. 34, repealed by No. 20/2014 s. 14(2).

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*	*	*	*	*	S. 4(1) def. of <i>Planning Appeals Board</i> inserted by No. 9512 s. 2(1), repealed by No. 9/1987 s. 9(Sch. 3 item 5.2).
*	*	*	*	*	S. 4(1) def. of <i>plastic bag</i> inserted by No. 61/2006 s. 46, repealed by No. 27/2019 s. 4(2).
					<i>police officer</i> has the same meaning as in the Victoria Police Act 2013 ;
					S. 4(1) def. of <i>police officer</i> inserted by No. 37/2014 s. 10(Sch. item 56.1(a)).
					<i>policy</i> means a State environment protection policy or a waste management policy;
					S. 4(1) def. of <i>policy</i> inserted by No. 10261 s. 5(a)(vi), amended by No. 37/2002 s. 9(b).
*	*	*	*	*	S. 4(1) def. of <i>pollutant</i> repealed by No. 10092 s. 5(1)(m).
					<i>pollute</i> includes causing or permitting pollution;
					S. 4(1) def. of <i>pollute</i> inserted by No. 20/1988 s. 7(a).
					<i>polluted</i> means the condition of the environment described and referred to in section 39(1), 41(1) or 45(1) as the case may be;
					S. 4(1) def. of <i>polluted</i> inserted by No. 10092 s. 5(1)(m).

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S. 4(1) def. of
pollution
 repealed by
 No. 10092
 s. 5(1)(m).

* * * * *

S. 4(1) def. of
*pollution
 control officer*
 inserted by
 No. 10092
 s. 5(1)(m),
 repealed by
 No. 10261
 s. 5(a)(vii).

* * * * *

premises includes messuages, buildings, lands,
 and hereditaments of every tenure and any
 machinery, plant, appliance, or vehicle used
 in connexion with any trade carried on at any
 premises and includes a ship;

prescribed means prescribed by or under this Act
 or continued in operation by this Act;

S. 4(1) def. of
proper officer
 inserted by
 No. 9098
 s. 2(1),
 repealed by
 No. 10092
 s. 5(1)(n).

* * * * *

protection agency means any person or body,
 whether corporate or unincorporate, having
 powers or duties under any other Act with
 respect to the environment or any segment of
 the environment in any part or parts of
 Victoria;

S. 4(1) def. of
public entity
 inserted by
 No. 20/2014
 s. 3(1).

public entity has the same meaning as it has in the
Public Administration Act 2004;

**Regional Waste and Resource Recovery
Implementation Plan** means a plan prepared
in accordance with Division 2AD of Part IX;

S. 4(1) def. of
*Regional
Waste and
Resource
Recovery
Implement-
ation Plan*
inserted by
No. 20/2014
s. 14(1).

* * * * *

S. 4(1) def. of
*regional
waste
management
plan*
inserted by
No. 99/1994
s. 29(a),
repealed by
No. 20/2014
s. 14(5).

* * * * *

S. 4(1) def. of
*register of
scheduled
activities*
inserted by
No. 61/2006
s. 34,
repealed by
No. 20/2014
s. 14(2).

registered owner means—

- (a) in relation to a motor vehicle—the person who is registered under the **Road Safety Act 1986** as the registered operator of the motor vehicle; and
- (b) in relation to a vessel—the person in whose name the vessel is registered under the **Marine Safety Act 2010**;
- (c) in relation to any other vehicle—the person who owns the vehicle (whether the vehicle is registered in any way or not);

S. 4(1) def. of
*registered
owner*
inserted by
No. 10092
s. 5(1)(o),
amended by
Nos 127/1986
s. 102(Sch. 4
item 8.1(c)),
52/1988
s. 161(Sch. 6
item 2.2),
57/1998
s. 28(1),
37/2002
s. 38(2),
65/2010
s. 420(Sch. 3
item 6.2(a)).

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S. 4(1) def. of
*research,
development
and
demonstration approval*
inserted by
No. 20/1994
s. 10(1).

regulation means regulation made under this Act;
*research, development and demonstration
approval* means an approval issued by the
Authority under section 19E;

S. 4(1) defs of
*schedule one
premises,
schedule two
premises,
schedule
three
premises*
inserted by
No. 10092
s. 5(1)(p),
repealed by
No. 61/2006
s. 3(c).

* * * * *

S. 4(1) def. of
*schedule four
premises*
inserted by
No. 10261
s. 5(a)(viii),
amended by
No. 20/1988
s. 6,
repealed by
No. 61/2006
s. 3(c).

* * * * *

S. 4(1) def. of
*schedule five
premises*
inserted by
No. 87/1989
s. 4(h),
repealed by
No. 61/2006
s. 3(c).

* * * * *

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*	*	*	*	*	
					S. 4(1) def. of <i>schedule six premises</i> inserted by No. 86/1990 s. 4(a), repealed by No. 61/2006 s. 3(c).

*	*	*	*	*	
					S. 4(1) def. of <i>scheduled activity</i> inserted by No. 61/2006 s. 34, repealed by No. 20/2014 s. 14(2).

scheduled premises means any premises—

- (a) prescribed by regulation; or
- (b) which is of a class prescribed by regulation as premises at or from which—
 - (i) waste is, or is likely to be, discharged, emitted or deposited to the environment; or
 - (ii) noise is, or is likely to be, emitted; or
 - (iii) waste is, or substances which are a danger or potential danger to the quality of the environment or any segment of the environment are, reprocessed, treated, stored, contained, disposed of or handled; or
 - (iv) any activity is conducted which creates a state of potential danger to the quality of the environment or any segment of the environment;

S. 4(1) def. of *scheduled premises* inserted by No. 61/2006 s. 3(b).

S. 4(1) def. of
*Secretary of the
Department of
Environment
and Primary
Industries*
inserted by
No. 20/2014
s. 3(1).

*Secretary of the Department of Environment and
Primary Industries* means the Department
Head of the Department of Environment and
Primary Industries within the meaning of the
Public Administration Act 2004;

S. 4(1) def. of
*Secretary
to the
Department
of Health*
inserted by
No. 29/2010
s. 37.

Secretary to the Department of Health means the
Department Head (within the meaning of the
Public Administration Act 2004) of the
Department of Health;

segment in relation to the environment means any
portion or portions of the environment
expressed in terms of volume, space, area,
quantity, quality, or time or any combination
thereof;

S. 4(1) def. of
sell
inserted by
No. 87/1989
s. 4(i).

sell includes—

- (a) agree to sell; and
- (b) offer or expose for sale; and
- (c) have in possession for the purpose of
sale; and
- (d) barter or exchange; and
- (e) cause or permit to be done any of the
above;

ship includes every description of vessel or craft;

S. 4(1) def. of
soil
repealed by
No. 10092
s. 5(1)(q).

* * * * *

State environment protection policy means a policy declared by the Governor in Council under section 16;

S. 4(1) def. of ***State environment protection policy*** inserted by No. 10092 s. 5(1)(r).

State-Wide Waste and Resource Recovery Infrastructure Plan means the plan prepared in accordance with Division 2AC of Part IX;

S. 4(1) def. of ***State-Wide Waste and Resource Recovery Infrastructure Plan*** inserted by No. 20/2014 s. 14(1).

statement of environmental audit means a statement issued by an environmental auditor which—

S. 4(1) def. of ***statement of environmental audit*** inserted by No. 20/1994 s. 16(3).

- (a) states that the condition of the segment of the environment specified in the statement is or is potentially detrimental to any beneficial use of that segment; and
- (b) if the condition of the segment of the environment specified in the statement is not or is not potentially detrimental to a particular beneficial use of that segment, so states;

Sustainability Victoria means Sustainability Victoria established by section 5 of the **Sustainability Victoria Act 2005**;

S. 4(1) def. of ***Sustainability Victoria*** inserted by No. 65/2005 s. 23(1).

trade means any trade business or undertaking whether ordinarily carried on at fixed premises or at varying places which results in the discharge of wastes and includes any activity prescribed to be a trade, business, or undertaking for the purposes of this Act;

this Act includes proclamations, Orders in Council and regulations made under this Act;

S. 4(1) def. of *Tribunal* inserted by No. 52/1998 s. 311(Sch. 1 item 27.1(b)).

Tribunal means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

S. 4(1) def. of *use* inserted by No. 87/1989 s. 4(j).

use includes cause or permit to be used;

S. 4(1) def. of *vessel* inserted by No. 65/2010 s. 420(Sch. 3 item 6.1).

vessel has the same meaning as it has in the **Marine Safety Act 2010**;

S. 4(1) def. of *Victorian Waste and Resource Recovery Infrastructure Planning Framework* inserted by No. 20/2014 s. 14(1).

Victorian Waste and Resource Recovery Infrastructure Planning Framework has the meaning given in section 50;

S. 4(1) def. of *waste* substituted by No. 10261 s. 5(a)(ix), amended by Nos 22/1987 s. 6, 54/2010 s. 66(b).

waste includes—

- (a) any matter whether solid, liquid, gaseous or radio-active which is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment;
- (ab) any greenhouse gas substance emitted or discharged into the environment;
- (b) any discarded, rejected, unwanted, surplus or abandoned matter;

- (c) any otherwise discarded, rejected, abandoned, unwanted or surplus matter intended for—
 - (i) recycling, reprocessing, recovery or purification by a separate operation from that which produced the matter; or
 - (ii) sale; and
- (d) any matter prescribed to be waste;

Waste and Resource Recovery Group means a body corporate established under section 49C;

S. 4(1) def. of *Waste and Resource Recovery Group* inserted by No. 20/2014 s. 3(1).

waste and resource recovery region means any of the following—

- (a) the Barwon South West Waste and Resource Recovery Region;
- (b) the Gippsland Waste and Resource Recovery Region;
- (c) the Goulburn Valley Waste and Resource Recovery Region;
- (d) the Grampians Central West Waste and Resource Recovery Region;
- (e) the Loddon Mallee Waste and Resource Recovery Region;
- (f) the Metropolitan Waste and Resource Recovery Region;
- (g) the North East Waste and Resource Recovery Region;

S. 4(1) def. of *waste and resource recovery region* inserted by No. 20/2014 s. 3(1).

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S. 4(1) def. of
*waste
management
facility*
inserted by
No. 37/2002
s. 9(c).

waste management facility includes a landfill, a transfer station, a composting facility, a facility to store or contain solid waste and a material recovery facility;

S. 4(1) def. of
*waste
management
policy*
inserted by
No. 37/2002
s. 9(c).

waste management policy means a policy declared by the Governor in Council under section 16A;

S. 4(1) def. of
waters
substituted by
No. 10092
s. 5(1)(s),
amended by
No. 81/1989
s. 3(Sch.
item 12.1).

waters includes any reservoir, tank, billabong, anabranch, canal, spring, swamp, natural or artificial channel, lake, lagoon, waterway, dam, tidal water, coastal water or groundwater;

S. 4(1) def. of
*works
approval*
inserted by
No. 10092
s. 5(1)(s).

works approval means an approval of works issued under section 19B.

Note to s. 4(1)
inserted by
No. 51/2017
s. 27(3).

Note

The provisions of the **Environment Protection Act 2017**, including the definitions in section 3(1) of that Act, are to be read as if they formed part of this Act (see section 4(1) of the **Environment Protection Act 2017**).

S. 4(2)
substituted by
No. 10160
s. 4(f),
amended by
No. 10261
s. 5(b).

- (2) Any reference in this Act to *waters* includes a reference to—
- (a) the bed and sub-soil lying beneath those waters;
 - (b) the air space superjacent to those waters; and

- (c) an open, piped or underground drain—
but does not include a reference to a drain which conveys waste to or which forms part of any works for the treatment of waste.
- (2A) A reference in this Act to *waters* includes a reference to the waters of the River Murray in respect of litter that has been deposited into, or on to, the waters of the River Murray from the Victorian bank of the River Murray. **S. 4(2A) inserted by No. 37/2002 s. 39.**
- (2B) This Act extends to, and applies to, the deposit of litter into, or on to, the waters of the River Murray from any premises that is in Victoria and extends to, and applies in relation to, any proceedings brought in relation to the deposit. **S. 4(2B) inserted by No. 37/2002 s. 39.**
- (3) For the purposes of this Act, the definition of "occupier"—
- (a) subject to paragraph (b), does not include a person being a financial institution and acting solely as a holder of a security interest in the premises, or as a mortgagee in possession, or which is, or appoints, a controller of the premises; **S. 4(3) inserted by No. 10092 s. 5(2), repealed by No. 10160 s. 4(f), new s. 4(3) inserted by No. 20/1994 s. 3(1)(b).**
- (b) does include a person being a financial institution when acting as a mortgagee in possession or which is, or appoints, a controller of the premises—
- (i) for the purposes of the abatement of any environmental hazard in respect of the premises pursuant to a notice under section 31A, 31B or 62A; or
- (ii) having possession and day to day active management and control of the premises (other than in respect of pollution that occurred prior to the financial institution becoming

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mortgagee in possession or becoming
or appointing a controller).

S. 4(3A)
inserted by
No. 20/1994
s. 3(1)(b).

(3A) In subsection (3), *controller* means a receiver, or a
receiver and manager, of the premises, or anyone
else who is in possession or has control of the
premises for the purpose of enforcing a security.

S. 4(3B)
inserted by
No. 86/1998
s. 20(1),
substituted by
No. 59/2003
s. 118(1),
repealed by
No. 74/2006
s. 25(1).

* * * * *

S. 4(4)
inserted by
No. 10092
s. 5(2).

(4) Where a word or phrase is given a particular
meaning in this Act, other parts of speech and
grammatical forms of that word or phrase have,
unless the contrary intention appears,
corresponding meanings.

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* * * * *

S. 5
amended by
No. 9512
s. 2(1),
substituted by
No. 10092
s. 6(1),
repealed by
No. 51/2017
s. 28.

* * * * *

S. 6
substituted by
No. 10092
s. 6(1),
amended by
Nos 22/1987
s. 22(a),
46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 68.1),
repealed by
No. 51/2017
s. 28.

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S. 7	*	*	*	*	*
amended by Nos 8277 s. 2, 9023 s. 40(Sch. 1 Pt A item 6(a)), 9098 s. 3, 9425 s. 15, 10081 s. 5(1), substituted by No. 10092 s. 6(1), amended by Nos 10160 s. 4(g), 50/1988 s. 93(2)(Sch. 2 Pt 2 item 16), 42/1995 s. 224(Sch. 2 item 15), 65/1996 s. 30 (1)(a)(b)(2), 46/1998 s. 7(Sch. 1) (as amended by No. 12/1999 s. 3(Sch. 1 item 7)), 9/2002 s. 3(Sch. item 5), 108/2004 s. 117(1) (Sch. 3 item 68.2), 80/2006 s. 26(Sch. item 33.1), 4/2008 s. 32(Sch. item 8.1), repealed by No. 51/2017 s. 28.					

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* * * * *

S. 8
amended by
No. 8560
s. 2(1)(a)(b),
repealed by
No. 9512
s. 2(1),
new s. 8
inserted by
No. 10092
s. 6(1),
substituted by
No. 65/1996
s. 3,
repealed by
No. 51/2017
s. 28.

* * * * *

S. 9
amended by
Nos 8277 s. 3,
9098 s. 4(a)(b),
9512 s. 2(1),
9988 s. 2,
substituted by
No. 10092
s. 6(1),
amended by
No. 42/1995
s. 224(Sch. 2
item 15),
substituted by
No. 65/1996
s. 3,
repealed by
No. 51/2017
s. 28.

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<p>S. 10 amended by Nos 9098 ss 5, 6(a), 9427 s. 6(1)(Sch. 5 item 52), substituted by Nos 10092 s. 6(1), 65/1996 s. 3, amended by Nos 46/1998 s. 7(Sch. 1) (as amended by No. 12/1999 s. 3(Sch. 1 item 7)), 49/2000 s. 27(a), 44/2001 s. 3(Sch. item 37.1), 108/2004 s. 117(1) (Sch. 3 item 68.3), 80/2006 s. 26(Sch. item 33.2), 4/2008 s. 32(Sch. item 8.2), repealed by No. 51/2017 s. 28.</p>	*	*	*	*	*
<p>S. 10A inserted by No. 8277 s. 4, repealed by No. 10092 s. 6(1).</p>	*	*	*	*	*
<p>S. 11 amended by No. 8277 s. 5, repealed by No. 10092 s. 6(1), new s. 11 inserted by No. 65/1996 s. 3, repealed by No. 51/2017 s. 28.</p>	*	*	*	*	*

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* * * * *

S. 12
amended by
No. 9098 s. 7,
repealed by
No. 9512
s. 2(1).

* * * * *

S. 12A
inserted by
No. 8560
s. 3(1),
repealed by
No. 9512
s. 2(1).

13 Powers, duties and functions of Authority

(1) The powers duties and functions of the Authority shall be—

(a) to administer this Act and any regulations and Orders made thereunder;

(b) to be responsible for and to co-ordinate all activities relating to the discharge of wastes into the environment and the generation, storage, treatment, transport and disposal of industrial waste and the emission of noise and for preventing or controlling pollution and noise and protecting and improving the quality of the environment;

S. 13(1)(b)
amended by
Nos 8823
s. 2(1)(b)(i)(ii),
10261 s. 6(a).

(c) to recommend to the Governor in Council State environment protection policy for the protection of any portion or portions of the environment or any segment or segments of the environment with respect to the uses and values, whether tangible or intangible, to be protected, the quality to be maintained, the extent to which the discharge of wastes may be permitted without detriment to the quality of the environment, long range development uses and planning and any other factors relating to the protection of the environment;

S. 13(1)(c)
amended by
No. 10160
s. 4(h).

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- | | |
|--|---|
| <p>S. 13(1)(ca)
inserted by
No. 10261
s. 6(b),
amended by
No. 37/2002
s. 11(a).</p> | <p>(ca) to recommend to the Governor in Council
waste management policy;</p> |
| <p>S. 13(1)(cd)
inserted by
No. 10/1995
s. 66,
re-numbered
as s. 13(1)(cb)
by No. 2/1999
s. 20,
amended by
No. 37/2002
s. 11(a).</p> | <p>(cb) to implement national environment
protection measures by incorporation into, or
variation of, a State environment protection
policy or waste management policy in
accordance with section 17A;</p> |
| <p>S. 13(1)(cc)
inserted by
No. 7/2001
s. 4.</p> | <p>(cc) to develop economic measures for the
purpose of providing an economic incentive
to avoid or minimise harm to the
environment or any portion or segment of the
environment by a particular activity;</p> |
| <p>S. 13(1)(cd)
inserted by
No. 37/2002
s. 3.</p> | <p>(cd) to promote continuing—

 (i) improvements in the efficiency with
 which resources are used, having regard
 to the principles of environment
 protection, in industrial enterprises and
 processes; and

 (ii) reductions in the ecological impacts of
 industrial enterprises and processes;</p> |
| <p>S. 13(1)(ce)
inserted by
No. 61/2006
s. 35,
repealed by
No. 20/2014
s. 15(1).</p> | <p style="text-align: center;">* * * * *</p> |

- (d) by the issue of works approvals, licences, permits, pollution abatement notices, minor works pollution abatement notices, research, development and demonstration approvals and notices under section 28B, to control the environmental impacts of activities which create a state of potential danger to the environment and to control the volume, types, constituents and effects of waste discharges, emissions, deposits, or other sources of pollutants and of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment and the generation, storage, reprocessing, treatment, transport, containment and disposal of waste and to control the volume intensity and quality of noise;
- (da) to control the use of notifiable chemicals;
- (e) to undertake surveys and investigations as to the causes, nature, extent, and prevention of pollution and to assist and co-operate with other persons or bodies carrying out similar surveys or investigations;
- (f) to conduct promote and co-ordinate research in relation to any aspect of pollution or the prevention thereof and to develop criteria for the protection and improvement of the environment;
- (g) to specify standards and criteria for the protection of beneficial uses and the maintenance of the quality of the environment having regard to the ability of the environment to absorb waste without

S. 13(1)(d)
amended by
Nos 8823
s. 2(1)(c),
10092
s. 6(2)(a),
10261 s. 6(c),
87/1989 s. 25,
49/2000
s. 11(7)(a),
61/2006
s. 4(1)(a).

S. 13(1)(da)
inserted by
No. 10261
s. 6(d).

S. 13(1)(g)
amended by
No. 10092
s. 6(2)(b).

detriment to its quality and other characteristics and having regard to the social and economic development of Victoria;

S. 13(1)(ga)
inserted by
No. 54/2010
s. 67.

(ga) to recommend to the Governor in Council the making of statutory policies and regulations—

S. 13(1)(ga)(i)
repealed by
No. 78/2012
s. 19, new
s. 13(1)(ga)(i)
inserted by
No. 5/2017
s. 101.

(i) to regulate the emission of greenhouse gas substances to contribute to the State's long-term emissions reduction target and interim emissions reduction targets under the **Climate Change Act 2017**; and

(ii) to regulate the emission and discharge of greenhouse gas substances to reduce harm to the environment;

S. 13(1)(h)
amended by
Nos 10261
s. 6(e),
65/1996 s. 4.

(h) to co-opt any persons or bodies to form panels of experts the Authority or the Minister considers capable of assisting the Authority in relation to special problems and to pay each member of a panel such fees and allowances—

S. 13(1)(h)(i)
inserted by
No. 65/1996
s. 4,
repealed by
No. 46/1998
s. 7(Sch. 1),
new
s. 13(1)(h)(i)
inserted by
No. 7/2001
s. 16,
amended by
Nos 108/2004
s. 117(1)
(Sch. 3
item 68.4),
6/2014 s. 16.

(i) determined by the Authority in accordance with the relevant guidelines published from time to time by the Victorian Public Sector Commission; or

- (ii) fixed for the purpose by Order of the Governor in Council; **S. 13(1)(h)(ii) inserted by No. 65/1996 s. 4.**
- (i) to publish reports and information with respect to any aspects of environment protection;
- (j) to specify methods to be adopted in taking samples and making tests for the purposes of this Act;
- (k) to undertake investigations and inspections to ensure compliance with this Act and to investigate complaints relating to breaches of this Act;
- (l) to provide information and education to the public regarding the protection and improvement of the environment;
- (m) to establish and maintain liaison and co-operation with other States and the Commonwealth with respect to environment protection, pollution control, and waste management;
- (n) to require the submission of plans relating to any existing or proposed waste discharge or any proposed system, device, or equipment for handling, storing, reprocessing, treating, containing or disposing of wastes; **S. 13(1)(n) amended by Nos 9098 s. 8(a), 87/1989 s. 5(a), 61/2006 s. 4(1)(b).**
- (na) to enter into agreements, including agreements to provide financial assistance, to implement measures to reduce waste and pollution; **S. 13(1)(na) inserted by No. 87/1989 s. 5(b).**
- (nb) to impose and collect an environment protection levy in accordance with this Act; **S. 13(1)(nb) inserted by No. 87/1989 s. 5(b).**

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S. 13(1)(nc)
inserted by
No. 99/1994
s. 29(b),
substituted by
No. 20/2014
s. 15(2).

(nc) to evaluate and comment on Regional Waste and Resource Recovery Implementation Plans;

S. 13(1)(p)
amended by
No. 99/2005
s. 72(1).

(o) to report to the Minister upon matters concerning the protection of the environment and upon any amendments it thinks desirable in the law relating to pollution and upon any matters referred to it by the Minister; and

(p) to promote, encourage, co-ordinate, and carry out long-range planning in environment management, waste management and pollution control; and

S. 13(1)(q)
inserted by
No. 99/2005
s. 72(2).

(q) any power, duty and function conferred on the Authority by any other Act.

S. 13(1A)
inserted by
No. 20/1994
s. 4.

(1A) The Authority has power—

(a) to apply for, obtain and hold intellectual property rights (including patents, copyrights, trade marks and registered designs); and

(b) to enter into agreements or arrangements for the commercial exploitation within or outside Victoria of those intellectual property rights and ancillary services on any terms or conditions as to royalties, lump sum payments or otherwise as the Authority may see fit.

S. 13(2)
repealed by
No. 31/1994
s. 4(Sch. 2
item 29.1).

* * * * *

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*	*	*	*	*	<p>S. 13(3) amended by No. 9098 s. 8(b), repealed by No. 10092 s. 6(2)(c).</p>
*	*	*	*	*	<p>S. 13(4) amended by Nos 8823 s. 2(1)(d), 9207 s. 6(2)(a), 9512 s. 2(1), 9571 s. 4(3)(a), repealed by No. 10092 s. 12(2).</p>
*	*	*	*	*	<p>S. 14 amended by Nos 9098 s. 6(a), 10092 s. 22(6)(a), 65/1996 s. 30(1)(c)(3), 46/1998 s. 7(Sch. 1), 108/2004 s. 117(1) (Sch. 3 items 68.5, 68.6), repealed by No. 51/2017 s. 29.</p>
*	*	*	*	*	<p>S. 15 amended by Nos 9512 s. 2(1), 10160 s. 4(i), 87/1989 s. 6, 49/2000 s. 27(b), repealed by No. 51/2017 s. 29.</p>

Part III—Environment protection

Division 1—Declaration of policy

Heading preceding s. 16 substituted as Pt 3 Div. 1 (Heading) by No. 49/2000 s. 12(a).

16 State environment protection policy

S. 16(1) amended by No. 10160 s. 4(j).

- (1) For the purposes of this Act the Governor in Council may, on the recommendation of the Authority, by Order published in the Government Gazette declare the environment protection policy to be observed with respect to the environment generally or in any portion or portions of Victoria or with respect to any element or elements or segment or segments of the environment.

S. 16(1A) inserted by No. 10261 s. 7(a), repealed by No. 37/2002 s. 11(b).

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S. 16(1B) inserted by No. 53/1992 s. 6(1).

- (1B) The Governor in Council may, by Order, declare State environment protection policy with respect to the removal, disposal or reduction of litter in the environment.

S. 16(1C) inserted by No. 2/1999 s. 3.

- (1C) The Governor in Council, on the recommendation of the Authority, by Order published in the Government Gazette, may declare State environment protection policy with respect to the re-use and recycling of substances.

S. 16(2) amended by No. 10261 s. 7(b).

- (2) Any Order made by the Governor in Council under this section may by Order of the Governor in Council published in the Government Gazette be revoked or varied.

16A Waste management policy

- (1) For the purposes of this Act the Governor in Council may, on the recommendation of the Authority, by Order published in the Government Gazette declare the waste management policy to be observed with respect to any aspect of the management of waste in Victoria, including with respect to—
- (a) the generation, storage, reprocessing, treatment, transport, containment and disposal, and generally the handling, of waste;
 - (b) the procedures to be implemented in the recycling, recovery, reclamation and re-use of waste and the use of recycled substances;
 - (c) the methods by which specified substances are to be disposed of;
 - (d) the routes and methods by which waste is to be transported;
 - (e) the location of treatment and disposal plants;
 - (f) the allocation of responsibility for waste management operations and disposal; and
 - (g) the use and disposal of notifiable chemicals.
- (2) Any Order made by the Governor in Council under this section may, by Order of the Governor in Council published in the Government Gazette, be revoked or varied.
- (3) Any reference to a State environment protection policy within the meaning of this Act in existence in any Act, statutory instrument, agreement or other document before the date of commencement of section 10 of the **Environment Protection (Resource Efficiency) Act 2002** is deemed to continue to include a reference to a waste

S. 16A
inserted by
No. 37/2002
s. 10.

S. 16A(1)(a)
amended by
No. 61/2006
s. 4(2).

management policy after that date, unless a contrary intention appears.

17 Orders may make provisions for certain matters

S. 17(1)
amended by
No. 10261
s. 7(c).

(1) In and by any Order made under section 16(1) the Governor in Council may, for securing the observance of State environment protection policy declared by the Order—

(a) classify any area or any segment or element of the environment in any area for the purposes of the Order;

S. 17(1)(b)
amended by
No. 8823
s. 2(1)(e).

(b) set aside any area or areas or any segment or segments of the environment within which the discharge, emission, or deposit of wastes or the emission of noise is prohibited or restricted as specified in the Order;

S. 17(1)(c)
amended by
No. 87/1989
s. 8(a).

(c) specify requirements to be observed for carrying any such prohibition or restriction into effect; and

(d) delegate to any protection agency such of the powers of the Authority as are necessary for securing the observance of the Order.

S. 17(1A)
inserted by
No. 10261
s. 7(d),
amended by
Nos 87/1989
s. 8(b),
37/2002
s. 11(c)(d).

(1A) In and by any Order made under section 16A the Governor in Council may, for securing the observance of waste management policy declared by the Order specify requirements to be observed for carrying into effect any aspect of that policy.

- (2) In and by any Order made under section 16(1) or 16(1A), the Governor in Council may specify requirements for developing economic measures, including prescribing conditions to which particular schemes are subject and the circumstances under which the Authority may alter, suspend or terminate the entitlements held under a scheme.

S. 17(2)
amended by
Nos 9758 s. 2,
10261 s. 7(e),
87/1989
ss 7(a), 8(c)(d),
repealed by
No. 20/1994
s. 5, new
s. 17(2)
inserted by
No. 7/2001
s. 5.

17A Order may incorporate NEPM

S. 17A
inserted by
No. 10/1995
s. 67.

- (1) In and by any Order made under section 16(1), 16(1C) or 16A(1) the Governor in Council may, subject to subsection (2), incorporate a national environment protection measure or vary a State environment protection policy or waste management policy so as to make the policy consistent with a national environment protection measure.
- (2) If in and by any Order made under section 16(1), 16(1C) or 16A(1) as provided by subsection (1), it is proposed to incorporate a measure which is more stringent than a national environment protection measure so as to—
- (a) reflect specific circumstances; or
 - (b) protect any special area or segment or element of the environment; or
 - (c) protect any special environmental value—
- the Authority must consult with the National Environment Protection Council before recommending that the Order be made.

S. 17A(1)
amended by
Nos 2/1999
s. 4, 37/2002
s. 11(d)(e).

S. 17A(2)
amended by
Nos 2/1999
s. 4, 37/2002
s. 11(e).

S. 17A(3)
amended by
No. 37/2002
s. 11(d).

- (3) Nothing in the **National Environment Protection Council (Victoria) Act 1995** prevents the maintaining of an existing more stringent State environment protection policy or waste management policy in existence at the commencement of section 7 of that Act.

S. 18
amended by
No. 10261
s. 7(f).

18 Content of Orders

- (1) State environment protection policy shall establish the basis for maintaining environmental quality sufficient to protect existing and anticipated beneficial uses in the area affected by the Order and in particular shall include in terms sufficiently clear to give an adequate basis for planning and licensing functions—
- (a) the boundaries of any area affected;
 - (b) identification of the beneficial uses to be protected;
 - (c) selection of the environmental indicators to be employed to measure and define the environmental quality;
 - (d) a statement of the environmental quality objectives (where practicable); and
 - (e) the program if any by which the stated environmental quality objectives are to be attained and maintained including, where appropriate, the specification of—
 - (i) maximum quantities and qualities of waste permitted to be discharged to the environment;
 - (ii) maximum levels of noise permitted to be emitted to the environment;

S. 18(1)(e)
substituted by
No. 10092 s. 7.

- (iii) minimum standards for the installation and operation of works or equipment for the control of waste or noise from specified sources or classes of premises; and
 - (iv) measures designed to minimize the possibility of the occurrence of pollution.
 - (2) Waste management policy is to include in terms sufficiently clear to give an adequate basis for planning and licensing functions—
 - (a) the objectives of the waste management policy; S. 18(2) inserted by No. 10261 s. 7(g), amended by No. 37/2002 s. 11(f)(i).
 - (b) the substances, circumstances and regions to which the waste management policy is to apply; and S. 18(2)(b) amended by No. 37/2002 s. 11(f)(ii).
 - (c) the time by which or period during which the waste management policy is to be in force. S. 18(2)(c) amended by No. 37/2002 s. 11(f)(ii).
- 18A Preparation of policies** S. 18A inserted by No. 20/1994 s. 6.
- (1) This section does not apply to—
 - (a) an Order made by the Governor in Council declaring a waste management policy certified under section 18B; or S. 18A(1)(a) amended by No. 37/2002 s. 11(h).

S. 18A(1)(b)
amended by
No. 37/2002
s. 11(g)(i)(h).

(b) the variation of an Order made by the Governor in Council declaring a State environment protection policy or a waste management policy by a further Order under section 16(2) or 16A(2) which the Authority determines to be fundamentally declaratory, machinery or administrative in nature; or

S. 18A(1)(c)
amended by
Nos 10/1995
s. 68(1),
37/2002
s. 11(g)(i).

(c) the revocation of an Order made by the Governor in Council by a further Order under section 16(2) or 16A(2); or

S. 18A(1)(d)
inserted by
No. 10/1995
s. 68(1),
amended by
Nos 2/1999
s. 5(1),
37/2002
s. 11(g)(ii).

(d) an Order made under section 16(1), 16(1C) or 16A(1) in accordance with section 17A.

S. 18A(2)
amended by
No. 37/2002
s. 11(h).

(2) Before a State environment protection policy or a waste management policy is declared or varied, the Authority must—

S. 18A(2)(a)
amended by
No. 37/2002
s. 11(i).

(a) on 3 occasions over a period of not less than 21 days publish notice of intention to declare or vary the State environment protection policy or waste management policy in a newspaper circulating in the relevant area specifying—

- (i) the area in respect of which the policy is intended to be declared or varied; and
- (ii) that any person likely to be affected by the intended declaration or variation may submit information to the Authority; and

- (b) consider any information submitted to the Authority by any person likely to be affected by the intended declaration or variation; and
 - (c) consult with any government department or statutory authority whose responsibilities or functions may be affected by the intended declaration or variation; and
 - (d) prepare a draft policy; and
 - (e) prepare a draft policy impact assessment; and
 - (f) on 3 occasions over a period of not less than 21 days publish notice of the preparation of the draft policy in a newspaper circulating in the relevant area specifying—
 - (i) the reasons for the proposed declaration or variation and the purposes to be achieved; and
 - (ii) the area in respect of which the draft policy is to be declared or varied; and
 - (iii) where a copy of the draft policy and draft policy impact assessment may be examined and obtained; and
 - (iv) that any person likely to be affected by the proposed declaration or variation may make a submission to the Authority.
- (3) The Authority must—
- (a) allow a period of not less than 3 months after publication of the last notice under subsection (2)(f) for submissions to be made; and
 - (b) consider all submissions under subsection (2)(f) received by the Authority; and

- (c) before recommending to the Governor in Council the declaration or variation of the policy, respond in writing to each person who has lodged a separate submission or in the case of a submission made on behalf of a number of persons, to a nominated representative of those persons.

S. 18B
inserted by
No. 20/1994
s. 6.

18B Certification of waste management policies

S. 18B(1)
amended by
No. 37/2002
s. 11(h).

- (1) The Minister may certify that there are special reasons as a result of which a waste management policy should be declared or varied without delay.

S. 18B(2)
amended by
Nos 49/2000
s. 10, 37/2002
s. 11(j).

- (2) A waste management policy to which this section applies remains in force for a period not exceeding 12 months from the time it is declared or varied.

- (3) The Minister must publish reasons for so certifying in the Government Gazette.

S. 18C
inserted by
No. 20/1994
s. 6.

18C Policy impact assessment

- (1) A policy impact assessment must include—
- (a) a statement of the purposes of the declaration or variation of policy; and
 - (b) an identification of the different means by which the purposes of the declaration or variation of policy can be achieved including the alternative of not declaring the policy or varying the existing policy; and
 - (c) an assessment of the possible financial, social and environmental impacts of each alternative expressed in qualitative and, to the extent practicable, quantitative terms to ensure that the costs are not disproportionate to the benefits to be achieved.

- (2) The Minister may appoint a person or persons as a review panel to review a policy impact assessment.
- (3) If a review panel is appointed, the Authority must submit to the review panel—
 - (a) the proposed declaration or variation;
 - (b) the policy impact assessment;
 - (c) a summary of the submissions made under section 18A(2)(f) received by the Authority;
 - (d) a statement of the Authority's evaluation of the submissions and of any changes made to the draft declaration or variation of policy as a result of the Authority's consideration of the submissions.
- (4) The review panel must advise the Authority as to whether or not the policy impact assessment appears having regard to subsection (1) to adequately assess the likely impact of the proposed declaration or variation of policy.
- (5) The Authority must submit a copy of—
 - (a) the policy impact assessment;
 - (b) the advice under subsection (4) (if any);
 - (c) its response to the advice (if any)—to the Governor in Council when the Authority submits its recommendation.

18D Consideration of Order by Parliament

S. 18D
inserted by
No. 20/1994
s. 6.

- (1) The Authority must ensure that a copy of every Order made under section 16 or 16A is laid before both Houses of Parliament on or before the sixth sitting day after the Order is published in the Government Gazette.

S. 18D(1)
amended by
No. 37/2002
s. 11(k).

- (2) Where section 18A applies, the Authority must ensure that a copy of—
- (a) the final policy impact assessment;
 - (b) the summary of the submissions made under section 18A(2)(f) received by the Authority;
 - (c) the statement of the Authority's evaluation of the submissions and of any changes made to the draft declaration or variation of policy as a result of the Authority's consideration of the submissions;
 - (d) the review panel's advice (if any) under section 18C(4) and the Authority's response—

is given to the Scrutiny of Acts and Regulations Committee.

- (3) If the Scrutiny of Acts and Regulations Committee considers that an Order laid before Parliament under subsection (1)—
- (a) does not appear to be within the powers conferred by this Act; or
 - (b) has been prepared in contravention of this Act; or
 - (c) contains any matter in contravention of this Act—

the Scrutiny of Acts and Regulations Committee may report to each House of Parliament as provided in subsection (4).

- (4) A report of the Scrutiny of Acts and Regulations Committee may contain such recommendations as the Committee considers appropriate including a recommendation that an Order should be—
- (a) disallowed in whole or in part; or
 - (b) amended as suggested in the report.

(5) An Order laid before Parliament under subsection (1) other than an Order made under section 16(1), 16(1C) or 16A(1) in accordance with section 17A may be disallowed in whole or in part by either House of Parliament.

S. 18D(5)
amended by
Nos 10/1995
s. 68(2),
2/1999 s. 5(2),
37/2002
s. 11(l).

(6) Sections 23 and 24 of the **Subordinate Legislation Act 1994** apply to an Order laid before the Parliament under subsection (1) other than an Order made under section 16(1), 16(1C) or 16A(1) in accordance with section 17A as if references to a "statutory rule" under those sections were a reference to such an Order.

S. 18D(6)
amended by
Nos 10/1995
s. 68(2),
65/1996
s. 30(1)(d),
2/1999 s. 5(2),
37/2002
s. 11(l).

18E Saving of former industrial waste management policies

S. 18E
inserted by
No. 37/2002
s. 12.

Any industrial waste management policy in force immediately before the date of commencement of section 10 of the **Environment Protection (Resource Efficiency) Act 2002** continues in force after that date as a waste management policy, until it is revoked.

19 Review of policies

S. 19
substituted by
No. 10160
s. 4(k),
amended by
No. 10261
s. 7(h),
substituted by
No. 20/1994
s. 6.

(1) The Authority must ensure that a State environment protection policy or a waste management policy is reviewed before the expiry of the period of 10 years after the day on which the policy came into effect or the policy was last reviewed.

S. 19(1)
amended by
No. 37/2002
s. 11(h).

- (2) The Authority must—
- (a) consider the review; and
 - (b) determine whether the policy should be varied or revoked.
- (3) The Authority must ensure that the Authority's determination is published in the report required under Part 7 of the **Financial Management Act 1994**.

S. 19(3)
amended by
No. 65/1996
s. 30(1)(e).

Pt 3 Div. 1A
(Heading and
ss 19AA–
19AC)
inserted by
No. 7/2001
s. 6.

Division 1A—Economic measures

S. 19AA
inserted by
No. 7/2001
s. 6.

19AA Economic measures

- (1) The Authority may develop economic measures for the purpose of providing an economic incentive to avoid or minimise harm to the environment or any portion or segment of the environment by a particular activity.
- (2) Economic measures such as tradeable permit schemes and environmental offsets may be used as a means of achieving cost effective environmental protection or regulation.
- (3) An economic measure must clearly identify—
- (a) the objectives of the economic measure;
 - (b) the type of economic measure proposed;
 - (c) the particular activity in respect of which the economic measure is proposed to be used;
 - (d) the harm to the environment or any portion or segment of the environment which it is proposed to avoid or minimise by using the economic measure;

- (e) how the economic measure will be integrated with any relevant policy, approval, permit, licence or other protection measure under this Act.

19AB Tradeable emission scheme

**S. 19AB
inserted by
No. 7/2001
s. 6.**

- (1) Without limiting the generality of section 19AA, a tradeable emission scheme is an economic measure.
- (2) A tradeable emission scheme may provide for—
 - (a) the determination and amendment of aggregate limits for the entitlement to emit a specified quantity of waste to the environment;
 - (b) the monitoring and reporting of emission levels;
 - (c) the determination of the rights and duties of holders of tradeable emission permits or credits;
 - (d) the creation, cancellation or suspension of tradeable emission permits or credits;
 - (e) the initial sale or allocation and further sale or allocation of tradeable emission permits or credits;
 - (f) an electronic system for the exchange of tradeable emission permits or credits;
 - (g) the intervention by the Authority in the event of anti-competitive behaviour.
- (3) Subsection (2) does not limit the matters that may be included in an economic measure relating to a tradeable emission scheme.

S. 19AC
inserted by
No. 7/2001
s. 6.

19AC Offence

- (1) The holder of a tradeable emission permit must not discharge or emit waste into the environment of a volume, quantity or concentration which exceeds the entitlements held by that person.
- (2) A person who contravenes subsection (1) is guilty of an indictable offence and liable to a penalty of not more than 2400 penalty units.

Pt 3 Div. 1B
(Heading and
ss 19AD–
19AK)
inserted by
No. 7/2001
s. 8.

Division 1B—Neighbourhood environment improvement plans

S. 19AD
inserted by
No. 7/2001
s. 8.

19AD Definitions

In this Division—

directed proposal means a proposal to develop a neighbourhood environment improvement plan that is submitted to the Authority under section 19AG;

intervention criteria means criteria that are—

- (a) specified in an Order in Council published in the Government Gazette that declares a State environment protection policy or a waste management policy; or
- (b) prescribed under this Act;

neighbourhood environment improvement plan means a neighbourhood environment improvement plan that is developed as a result of either a directed proposal or a voluntary proposal;

S. 19AD
def. of
*intervention
criteria*
amended by
No. 37/2002
s. 11(m).

voluntary proposal means a proposal to develop a neighbourhood environment improvement plan that is submitted to the Authority under section 19AE.

19AE Submission of voluntary proposal

S. 19AE
inserted by
No. 7/2001
s. 8.

A protection agency may in the form and manner specified in guidelines issued by the Authority submit a proposal to develop a neighbourhood environment improvement plan to the Authority for endorsement.

19AF Impetus for a directed proposal

S. 19AF
inserted by
No. 7/2001
s. 8.

- (1) A protection agency, having powers or duties with respect to a segment of the environment, may request the Authority to—
 - (a) conduct a specified environmental audit using an environmental auditor; or
 - (b) undertake an investigation—

for the purposes of determining whether the beneficial uses of that segment of the environment are being protected.
- (2) A person other than a protection agency, who believes a beneficial use of a segment of the environment requires protection, may request the Authority to—
 - (a) conduct a specified environmental audit; or
 - (b) undertake an investigation—

for the purposes of determining whether the beneficial uses of the segment of the environment are being protected.
- (3) A request under this section must be made in the manner and form specified in guidelines issued by the Authority.

- (4) In making a determination referred to in this section, the Authority must have regard to the applicable intervention criteria.
- (5) Within 30 days after receiving a request under this section, the Authority must notify the protection agency or the person, as the case may be, whether or not the Authority intends—
 - (a) to conduct a specified environmental audit; or
 - (b) to undertake an investigation.
- (6) If the Authority conducts a specified environmental audit using an environmental auditor or undertakes an investigation as requested under this section, the Authority must within 30 days after receiving the results of the audit or the investigation notify the protection agency or the person, as the case may be, of—
 - (a) the results of the specified environmental audit or the investigation; and
 - (b) the actions, if any, that the Authority intends to take as a consequence of the results.

S. 19AG
inserted by
No. 7/2001
s. 8.

19AG Submission of directed proposal

- (1) After consultation with a protection agency, the Authority may by notice in writing direct the protection agency to submit within a specified period a proposal to develop a neighbourhood environment improvement plan to the Authority for endorsement if—
 - (a) a statement of environmental audit has been issued stating that the beneficial uses of a segment of the environment are not being protected; and
 - (b) the Authority is of the opinion that the applicable intervention criteria are met.

- (2) A protection agency must, if so directed by the Authority, submit in the form and manner specified in guidelines issued by the Authority a proposal to develop a neighbourhood environment improvement plan to the Authority for endorsement.

19AH Endorsement of a directed or voluntary proposal

S. 19AH
inserted by
No. 7/2001
s. 8.

- (1) The Authority may endorse a directed or voluntary proposal to develop a neighbourhood environment improvement plan if the Authority is satisfied that all persons who may be required to undertake specified works under the proposed plan have agreed to participate in the development of the plan.
- (2) The Authority may impose any term, condition, limitation or restriction on that endorsement.
- (3) The Authority must by notice in writing to the relevant protection agency specify the reasons for imposing any term, condition, limitation or restriction on that endorsement.

19AI Approval of neighbourhood environment improvement plan

S. 19AI
inserted by
No. 7/2001
s. 8.

- (1) A protection agency must submit a neighbourhood environment improvement plan that is prepared in accordance with a proposal endorsed under section 19AH to the Authority for approval.
- (2) The Authority may direct the protection agency to amend the neighbourhood environment improvement plan submitted to the Authority for approval.
- (3) The Authority may only approve an neighbourhood environment improvement plan if the plan—
 - (a) specifies the area in respect of which the plan operates; and

S. 19A(3)(b)
amended by
No. 37/2002
s. 11(n).

- (b) is consistent with any applicable State environment protection policy or waste management policy; and
- (c) provides for the monitoring of compliance with the neighbourhood environment improvement plan and the reporting of the implementation of agreed outcomes; and
- (d) requires consultation with all persons whose interests are affected by the plan; and
- (e) provides for the participation of the persons who were involved in the development of the plan in the evaluation of the plan's effectiveness in achieving the agreed outcomes; and
- (f) provides the mechanism for review of the plan by the relevant protection agency; and
- (g) provides for the identification and allocation of resources to fund the implementation of the plan and any review and amendment of the plan; and
- (h) takes account of any relevant environment improvement plan, Regional Waste and Resource Recovery Implementation Plan or regional catchment strategy within the meaning of the **Catchment and Land Protection Act 1994**; and
- (i) takes account of any relevant planning scheme approved under the **Planning and Environment Act 1987** or any municipal strategic statement within the meaning of that Act; and
- (j) where it requires the undertaking of specified works, states that the person who is to undertake those works has agreed to do so; and

S. 19A(3)(h)
amended by
No. 20/2014
s. 16.

- (k) provides for contingency or emergency plans; and
- (l) requires responsible authorities within the meaning of the **Planning and Environment Act 1987** to have regard to the plan when exercising their powers, functions and duties in relation to the segment of the environment to which the plan relates.
- (4) The Authority must publish notice of its approval of a neighbourhood environment improvement plan in the Government Gazette.
- (5) An approved neighbourhood environment improvement plan applies as from the date specified in the notice of approval published in the Government Gazette.

19AJ Review and amendment of approved neighbourhood environment improvement plan

S. 19AJ
inserted by
No. 7/2001
s. 8.

- (1) If following a review of a neighbourhood environment improvement plan in accordance with the review mechanism referred to in section 19AI(3)(f) a protection agency is of the opinion that an amendment to the plan is required, the protection agency may submit a proposal to amend the plan to the Authority for approval.
- (2) The Authority may only approve a proposal to amend a neighbourhood environment improvement plan if the Authority is satisfied that—
 - (a) the protection agency has consulted with those persons who may be required to undertake specified works under the proposed amendment to the plan; and
 - (b) persons who may be required to undertake specified works under the proposed amendment to the plan have agreed to undertake those works; and

- (c) the amended plan will be consistent with the requirements in section 19AI(3).
- (3) The Authority may impose any term, condition, limitation or restriction on the approval of the proposed amendment to the neighbourhood environment improvement plan.
- (4) The Authority must by notice in writing to the relevant protection agency specify the reasons for imposing any term, condition, limitation or restriction on that approval.
- (5) The Authority must publish notice of its approval of an amendment to a neighbourhood environment improvement plan in the Government Gazette.
- (6) An approved amendment to a neighbourhood environment improvement plan applies as from the date specified in the notice of approval published in the Government Gazette.

S. 19AK
inserted by
No. 7/2001
s. 8.

19AK Consideration of guidelines by Parliament

- (1) The Authority must ensure that a copy of every guideline issued by the Authority under section 19AE, 19AF(3) or 19AG(2) is laid before both Houses of Parliament on or before the sixth sitting day after the guideline is issued.
- (2) A guideline laid before Parliament under subsection (1) may be disallowed in whole or in part by either House of Parliament.
- (3) Sections 23 and 24 of the **Subordinate Legislation Act 1994** apply to a guideline laid before Parliament under subsection (1) as if references to a "statutory rule" under those sections were a reference to such a guideline.

Division 2—Works approval

Heading preceding s. 19A inserted by No. 10092 s. 8(1), substituted as Pt 3 Div. 2 (Heading) by No. 49/2000 s. 12(b).

19A Scheduled premises

- (1) The occupier of a scheduled premises must not do any act or thing, including the commencement of any construction, installation or modification of plant, equipment or process or any subsequent step in relation thereto, which is likely to cause—
- (a) an increase or alteration in the waste discharged or emitted from, deposited to, or produced at, the premises; or
 - (b) an increase or alteration in the waste which is, or substances which are a danger or potential danger to the quality of the environment or any segment of the environment which are, reprocessed, treated, stored, contained, disposed of or handled, at the premises; or
 - (c) a change in any method or equipment used at the premises for the reprocessing, treatment, storage, containment, disposal or handling of waste, or of substances which are a danger or potential danger to the quality of the environment or any segment of the environment; or
 - (d) a significant increase in the emission of noise; or

S. 19A inserted by No. 10092 s. 8(1) (as amended by No. 10160 s. 5(1)(a)(b)), amended by Nos 10261 s. 8(1), 20/1988 s. 8, 81/1989 s. 3(Sch. item 12.2), 87/1989 ss 7(b), 9, 10(a), 86/1990 s. 5(a), 49/2000 s. 3(15)(Sch. item (1)), substituted by No. 61/2006 s. 5.

(e) a state of potential danger to the quality of the environment or any segment of the environment—

except in accordance with a works approval or a licence or a requirement specified in a notice given by the Authority as the case may be unless the act or thing is only in the course of and for the purpose of general maintenance.

- (2) The occupier of a scheduled premises must not construct, relocate or reduce the height of any chimney through which waste is, or may be, discharged or emitted to the atmosphere or carry out any work which is the commencement of or any subsequent step in relation thereto, except in accordance with a works approval or a licence or a requirement specified in a notice given by the Authority as the case may be unless the work is only in the course of and for the purpose of general maintenance.
- (3) The occupier of any premises must not do any act or thing in relation to those premises that would make those premises a scheduled premises except in accordance with a works approval, a research, development and demonstration approval or a notice issued by the Authority.
- (4) The Authority may by notice in writing upon the application of the occupier of a scheduled premises in respect of which a licence is in force under this Act, or who is exempt from the need to hold a licence under this Act, exempt the occupier from compliance with subsection (1)(a) if the Authority is satisfied that the exemption will not result in a discharge, emission or deposit of waste which by reason of volume, location, constituency or manner—
- (a) affects adversely the quality of any segment of the environment; or

S. 19A(4)
amended by
No. 20/2014
s. 4(1).

(b) affects adversely the interests of any person other than the applicant.

- (5) The Authority may by notice in writing upon the application of the occupier of a scheduled premises in respect of which a licence is in force under this Act, or who is exempt from the need to hold a licence under this Act, exempt the occupier from compliance with subsection (1)(b) or (1)(c) if the Authority is satisfied that the exemption will not result in the reprocessing, treatment, storage, containment, disposal or handling of—
- (a) prescribed industrial waste; or
 - (b) substances which are a danger or a potential danger to the quality of the environment or any segment of the environment—

**S. 19A(5)
amended by
No. 20/2014
s. 4(2).**

which by reason of volume, location, constituency or manner is or are likely to cause an environmental hazard or affect adversely the interests of any person other than the applicant.

- (6) The Authority may by notice in writing upon the application of the occupier of a scheduled premises in respect of which a licence is in force under this Act, or who is exempt from the need to hold a licence under this Act, exempt the occupier from compliance with subsection (1)(d) if the Authority is satisfied that the exemption will not result in an emission of noise which by reason of volume, intensity, duration or location—
- (a) affects adversely the quality of any segment of the environment; or
 - (b) affects adversely the interests of any person other than the applicant.

**S. 19A(6)
amended by
No. 20/2014
s. 4(3).**

S. 19A(6A)
inserted by
No. 20/2014
s. 4(4).

(6A) The Authority may, by notice in writing upon the application of the occupier of a scheduled premises in respect of which a licence is in force under this Act, or who is exempt from the need to hold a licence under this Act, exempt the occupier from compliance with subsection (2).

S. 19A(6B)
inserted by
No. 20/2014
s. 4(4).

(6B) The Authority may grant an exemption under subsection (6A) if the Authority is satisfied that the exemption will not result in a discharge or emission to the atmosphere of waste which by reason of volume, intensity, location, constituency or manner affects adversely—

(a) the quality of any segment of the environment; or

(b) the interests of any person other than the applicant.

S. 19A(7)
amended by
No. 20/2014
s. 4(5).

(7) An exemption given under subsection (4), (5), (6) or (6A)—

(a) may be general or limited in operation according to time or any other circumstances; and

(b) may be revoked or amended by a written notice given by the Authority.

S. 19A(8)
amended by
No. 20/2014
s. 4(6).

(8) Subject to subsections (4), (5), (6) and (6A), the occupier of any scheduled premises in respect of which there is not applicable an exemption under the regulations who contravenes subsection (1), (2) or (3) is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units.

(9) A works approval, licence, requirement specified in a notice given by the Authority or an exemption in force before the commencement of section 5 of the **Environment Protection (Amendment) Act 2006** continues to have the same force and effect

as it would have had if that section had not come into operation.

19B Works approval

S. 19B
inserted by
No. 10092
s. 8(1).

- (1) An application for a works approval shall be—
 - (a) made in accordance with a form and in a manner approved by the Authority;
 - (b) forwarded with the prescribed fee; and
 - (c) accompanied by such plans, specifications and other information and a summary thereof as may be required by the Authority within 21 days of receiving the initial application.
- (2) The Authority shall not deal with an application which does not comply with subsection (1) and shall advise the applicant that the application does not comply with subsection (1).
- (3) The Authority shall upon receiving an application for a works approval—
 - (a) refer a copy of the application and a copy or summary of the accompanying plans, specifications and other information to—
 - (i) any protection agency which the Authority considers may be directly affected by the application; and
 - (ii) if the Authority considers that the application is a significant works approval application, the Secretary to the Department of Health and Human Services; and

S. 19B(3)(a)(ii)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1),
11/2002
s. 3(Sch. 1
item 22),
29/2010 s. 38,
substituted by
No. 51/2017
s. 30(1).

S. 19B(3)(a)(iii)
inserted by
No. 45/1987
s. 205(Sch.
item 19(a)).

(iii) any responsible authority under the **Planning and Environment Act 1987** administering a planning scheme applying to the land for which the application for works approval is made; and

S. 19B(3)(a)(iv)
inserted by
No. 92/1990
s. 128(Sch. 1
item 8.1),
amended by
No. 63/2006
s. 61(Sch.
item 11).

(iv) the Minister administering the **Mineral Resources (Sustainable Development) Act 1990**, if the application relates to exploration for minerals or mining; and

(b) publish in a newspaper circulating generally throughout Victoria notice—

- (i) that the Authority has received an application for a works approval;
- (ii) of the place or places at which a copy or a summary of the application and a copy or summary of the accompanying plans, specifications and other information may be examined;
- (iii) that any person or body interested in the application may request and upon payment of the prescribed fee shall receive from the Authority a summary of the application and the accompanying plans, specifications and other information;
- (iv) that any person or body interested in the application may within 21 days of the publication of the notice comment in writing on the application; and

- (v) that any person or body interested in the application may ask the Authority in writing to be notified if the Authority issues a works approval. **S. 19B(3)(b)(v) amended by Nos 22/1987 s. 7(a)(i)(ii), 87/1989 s. 11(1)(a)(i)(ii).**
- (3A) A responsible authority to which a copy of an application is referred under subsection (3) must make a copy of the application and a copy of all accompanying documents available at its office for any person to inspect free of charge. **S. 19B(3A) inserted by No. 45/1987 s. 205(Sch. item 19(b)).**
- (3B) If an application for a works approval is to be jointly advertised under section 20AA with a notice relating to the same proposal under the **Environment Effects Act 1978** this section applies as if— **S. 19B(3B) inserted by No. 20/1994 s. 8(1).**
- (a) in subsection (3)(b) for subparagraphs (iv) and (v) there were **substituted** the following subparagraph—
- "(iv) that comments by any person or body interested in the application must be made as a submission on the environment effects statement or be included in any submission on the environment effects statement;"
- (b) subsections (6) and (6A) were **repealed**.
- (4) The Secretary to the Department of Health and any protection agency to which a copy of an application for a works approval has been referred under subsection (3)(a) may within 21 days from the day upon which the copy was sent submit a written report to the Authority which may include any objections or recommendations in relation to the application. **S. 19B(4) amended by Nos 10262 s. 4, 46/1998 s. 7(Sch. 1), 11/2002 s. 3(Sch. 1 item 22), 29/2010 s. 38.**

S. 19B(4A)
inserted by
No. 45/1987
s. 205(Sch.
item 19(c)).

(4A) A responsible authority to which a copy of an application for a works approval has been referred under subsection (3)(a)—

- (a) must tell the Authority in writing within 21 days after the day on which the copy was sent whether—
 - (i) the proposed works are allowed by the planning scheme with or without conditions;
 - (ii) a permit is required under the **Planning and Environment Act 1987** for the proposed works;
 - (iii) a permit has been issued under the **Planning and Environment Act 1987** for the proposed works;
 - (iv) the responsible authority is considering an application for a permit under the **Planning and Environment Act 1987** for the proposed works;
 - (v) the proposed works are prohibited by the planning scheme; and
- (b) may tell the Authority in writing within 45 days after the day on which the copy was sent whether it supports, does not object or objects to the application; and
- (c) may ask the Authority in writing within 45 days after the day on which the copy was sent to include specified conditions in the works approval if it is issued.

S. 19B(4B)
inserted by
No. 45/1987
s. 205(Sch.
item 19(c)).

(4B) The responsible authority must give the Authority a copy of any permit issued under the **Planning and Environment Act 1987** for the proposed works.

- (4C) The Minister administering the **Mineral Resources (Sustainable Development) Act 1990** must advise the Authority within 21 days after he or she receives a copy of an application under subsection (3)(a)(iv)—
- (a) whether the proposed works are prohibited by the planning scheme; and
 - (b) if so, whether an amendment to the planning scheme is to be prepared to allow the proposed works to proceed.
- (5) The Authority shall—
- (a) take into account any replies, reports, comments and information received under subsection (4), (4A) or (4B); and
 - (b) where the Secretary to the Department of Health submits a written report objecting to the issue of a works approval on the ground that the public health is likely to be endangered if a works approval is issued, refuse to issue a works approval; and
 - (c) if the proposed works are prohibited by a planning scheme, refuse to issue a works approval, unless the Authority has been advised under subsection (4C)(b) that an amendment to the planning scheme is to be prepared.
- (5A) The Authority may issue a works approval for proposed mining or exploration works that will require an amendment to the planning scheme on the condition that the works approval does not take effect until the Minister or the planning authority approves the required amendment.

S. 19B(4C) inserted by No. 92/1990 s. 128(Sch. 1 item 8.2), amended by No. 63/2006 s. 61(Sch. item 11).

S. 19B(5) substituted by No. 45/1987 s. 205(Sch. item 19(d)).

S. 19B(5)(b) amended by Nos 10262 s. 4, 46/1998 s. 7(Sch. 1), 11/2002 s. 3(Sch. 1 item 22), 29/2010 s. 38.

S. 19B(5)(c) inserted by No. 45/1987 s. 205(Sch. item 19(d)), amended by No. 92/1990 s. 128(Sch. 1 item 8.3).

S. 19B(5A) inserted by No. 92/1990 s. 128(Sch. 1 item 8.4), amended by No. 81/2004 s. 47(1).

(6) At the expiration of 21 days from the publication of a notice under subsection (3) the Authority may if any written comments have been received from any person or body interested in the application in accordance with subsection (3)(b)(iv) hold a conference in accordance with section 20B.

S. 19B(6A)
inserted by
No. 22/1987
s. 7(b),
substituted by
No. 87/1989
s. 11(1)(b).

(6A) If the Authority receives requests under subsection (3)(b)(v), the Authority must notify the people and bodies who made the requests that it has issued a works approval by—

(a) sending notice of the issue to each person and body who made a request (or if a request is made by a number of people or bodies jointly, to a representative of those people or bodies); or

(b) publishing notice of the issue in a newspaper circulating generally throughout Victoria.

(7) The Authority shall not later than 4 months after receiving an application for a works approval—

S. 19B(7)
amended by
No. 20/1994
s. 8(2).

(a) refuse to issue a works approval; or

(b) issue a works approval subject to such conditions as the Authority considers appropriate and which conditions shall be specified in the works approval.

(7A) If a planning scheme requires a permit to be obtained under the **Planning and Environment Act 1987** for the proposed works and a permit has not been issued, any works approval issued by the Authority for the proposed works must be issued subject to a condition that the approval does not take effect until a copy of the permit is served on the Authority by the applicant.

S. 19B(7A)
inserted by
No. 45/1987
s. 205(Sch.
item 19(e)),
amended by
No. 87/1989
s. 12.

(7B) Any works approval issued in contravention of subsection (5)(c) or (7A) is void.

S. 19B(7B)
inserted by
No. 45/1987
s. 205(Sch.
item 19(e)).

- (8) The occupier of any premises who contravenes any conditions specified in a works approval shall be guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units.
- (9) In this section—
significant works approval application means an application for a works approval that is reasonably likely to have significant implications for public health that meets the criteria specified by the Minister for the purposes of this section in a determination published in the Government Gazette.

S. 19B(8)
amended by
Nos 87/1989
s. 7(a),
86/1990
s. 5(a),
49/2000
s. 3(15)(Sch.
item (2)(a)(b)).

S. 19B(9)
inserted by
No. 51/2017
s. 30(2).

19C Power of Authority to amend works approval

S. 19C
inserted by
No. 10092
s. 8(1).

- (1) Subject to subsections (2) and (3) the Authority may by notice in writing amend any works approval—
- (a) by revoking or amending any condition specified in a works approval; or
- (b) by inserting a new condition in a works approval.
- (2) The Authority may only amend a works approval other than a works approval issued in respect of a scheduled premises used for the reprocessing, treatment, storage, containment, disposal or handling of prescribed industrial waste, or of substances which are a danger or potential danger to the quality of the environment or any segment of the environment under subsection (1) if the Authority is satisfied that the amendment will not result in a discharge, emission or deposit of waste

S. 19C(1)
amended by
Nos 10261
s. 8(2)(a),
87/1989
s. 10(b).

S. 19C(2)
amended by
Nos 10261
s. 8(2)(b),
22/1987
s. 22(b),
61/2006
s. 6(1).

which by reason of volume, location, constituency or manner—

- (a) affects adversely to a substantial degree the quality of any segment or element of the environment; or
- (b) affects adversely to a substantial degree the interests of any person other than the holder of the works approval.

S. 19C(3)
inserted by
No. 10261
s. 8(2)(c),
substituted by
No. 61/2006
s. 6(2).

- (3) The Authority may only amend a works approval issued in respect of a scheduled premises used for the reprocessing, treatment, storage, containment, disposal or handling of prescribed industrial waste, or of substances which are a danger or potential danger to the quality of the environment or any segment of the environment under subsection (1) if the Authority is satisfied that the amendment will not result in the reprocessing, treatment, storage, containment, disposal or handling of prescribed industrial waste, or of substances which are a danger or potential danger to the quality of the environment or any segment of the environment, which by reason of volume, location, constituency or manner—

- (a) is or are likely to cause an environmental hazard; or
- (b) affect adversely to a substantial degree the interests of any person other than the holder of the works approval.

S. 19C(4)
inserted by
No. 61/2006
s. 6(2).

- (4) An amendment of a works approval made before the commencement of section 6 of the **Environment Protection (Amendment) Act 2006** continues to have the same force and effect as it would have had if that section had not come into operation.

19CA Duration of works approval

- (1) The Authority may specify in a works approval the day on which the works approval shall expire if the works in respect of which the works approval is issued have not commenced by that day to the satisfaction of the Authority.
- (2) A works approval shall expire in any of the following cases—
- (a) if the works to which the works approval relates have not been commenced to the satisfaction of the Authority by the day specified in the works approval or any later day specified under subsection (4);
- (b) if a new works approval is issued in substitution for an existing works approval;
- (c) if—
- (i) a licence is issued under section 20 in respect of the premises to which the works approval relates; and
- (ii) all works covered by the works approval have been completed to the satisfaction of the Authority;
- (d) if—
- (i) a licence is amended under section 20A; and
- (ii) the amendment is made because of the works to which the works approval relates; and
- (iii) all works covered by the works approval have been completed to the satisfaction of the Authority.

S. 19CA
inserted by
No. 10092
s. 8(1) (as
amended by
No. 10160
s. 5(1)(c)).

S. 19CA(2)(a)
amended by
No. 45/1987
s. 205(Sch.
item 20(a)).

S. 19CA(2)(c)
substituted by
No. 87/1989
s. 13.

S. 19CA(2)(d)
substituted by
No. 87/1989
s. 13.

S. 19CA(3)
inserted by
No. 45/1987
s. 205(Sch.
item 20(b)).

(3) If a permit has been issued for the proposed works under the **Planning and Environment Act 1987**, the Authority must specify an expiry day for the works approval under subsection (1) which must not be later than the day on which the permit expires for a failure to start the works.

S. 19CA(4)
inserted by
No. 45/1987
s. 205(Sch.
item 20(b)).

(4) The Authority may extend the time within which any works to which subsection (3) applies must be commenced.

S. 19D
inserted by
No. 10092
s. 8(1) (as
amended by
No. 10160
s. 5(1)(d)),
amended by
No. 87/1989
s. 7(b),
repealed by
No. 10261
s. 8(3),
new s. 19D
inserted by
No. 20/1994
s. 9.

19D Application for research, development and demonstration approval

(1) The occupier of any premises which—

S. 19D(1)(a)
substituted by
No. 61/2006
s. 7(1).

(a) is a scheduled premises; or

S. 19D(1)(b)
substituted by
No. 61/2006
s. 7(1).

(b) would become a scheduled premises if works were carried out—

may apply to the Authority for a research, development and demonstration approval in respect of any research, development and demonstration project which would otherwise require a works approval.

- (2) An application for a research, development and demonstration approval must be—
 - (a) made in a form and manner approved by the Authority and in accordance with any requirements of the Authority; and
 - (b) forwarded with a fee of 60 fee units.
- (3) The Authority may require an applicant for a research, development and demonstration approval to provide any information relating to the application specified by the Authority.
- (4) The Authority must not deal with an application which does not comply with subsection (2) or in respect of which a requirement under subsection (3) has not been complied with.
- (5) A research, development and demonstration approval in force before the commencement of section 7 of the **Environment Protection (Amendment) Act 2006** continues to have the same force and effect as it would have had if that section had not come into operation.

S. 19D(5)
inserted by
No. 61/2006
s. 7(2).

19E Consideration of application

- (1) The Authority must issue or refuse to issue a research, development and demonstration approval within 30 days of receiving an application which complies with sections 19D(2) and 19D(3).
- (2) In determining whether the application relates to a research, development and demonstration project, the Authority must have regard to the scale, dimensions, purpose and duration and the potential environmental impact of the proposed works.

S. 19E
inserted by
No. 20/1994
s. 9.

- (3) The Authority may issue a research, development and demonstration approval subject to such conditions as the Authority considers appropriate and which conditions must be specified in the approval.

S. 19F
inserted by
No. 20/1994
s. 9.

19F Duration and effect of approval

- (1) Section 19CA applies in respect of a research, development and demonstration approval as if it were a works approval.
- (2) The holder of a research, development and demonstration approval is exempted from the requirement to obtain a works approval in respect of the works specified in the approval.
- (3) During the currency of a research, development and demonstration approval the Authority may by notice in writing—
- (a) revoke the research, development and demonstration approval; or
 - (b) revoke or amend any condition to which the research, development and demonstration approval is subject; or
 - (c) attach new conditions to the research, development and demonstration approval.

S. 19G
inserted by
No. 20/1994
s. 9.

19G Offences

S. 19G(1)
amended by
Nos 49/2000
s. 3(15)(Sch.
item (3)
(a)–(c)),
68/2009
s. 97(Sch.
item 50.1).

- (1) A holder of a research, development and demonstration approval who contravenes any condition to which the approval is subject is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after a finding of

guilt or after service by the Authority on the accused of notice of contravention of the condition.

(2) Where—

- (a) premises are shared by a corporation and a subsidiary or subsidiaries of that corporation; and
- (b) one of those corporations is the holder of a research, development and demonstration approval under this Act in respect of those premises; and
- (c) there occurs on the premises a contravention of a condition to which the research, development and demonstration approval is subject—

the holder of the research, development and demonstration approval is in the absence of evidence to the contrary deemed to have caused that contravention.

(3) A holder of a research, development and demonstration approval is not liable to a penalty under this Act with respect to the discharge, emission or deposit of waste if the holder proves that the holder—

- (a) complied with the conditions to which the approval is subject with respect to the discharge, emission or deposit; and
- (b) complied with any requirement contained in a notice served under section 31A or 31B; and
- (c) did not discharge or emit odours which are offensive to the senses of human beings in a residential area or in a public open space adjacent to a residential area.

S. 19G(4)
amended by
No. 68/2009
s. 97(Sch.
item 50.2).

- (4) If a holder of a research, development and demonstration approval intends to prove any of the matters in subsection (3), the holder must within 21 days of the day on which the charge-sheet and summons alleging the offence is served on that person cause to be served on the informant a written statement specifying—
- (a) any details, documents or other information upon which the holder intends to rely to establish those matters during the relevant period; and
 - (b) details of any discharge, emission or deposit of waste during the relevant period; and
 - (c) details of documents relating to the matters specified in paragraphs (a) and (b).
- (5) The documents specified under subsection (4) must be made available for inspection by or on behalf of the informant.
- (6) In subsection (4) *relevant period* means—
- (a) the day or days on which the alleged contravention occurred; and
 - (b) the period of 2 days before and after each such day or days.

Division 3—Control of wastes and noise

Heading preceding s. 20 substituted as Pt 3 Div. 3 (Heading) by No. 49/2000 s. 12(c).

20 Licensing of certain premises

S. 20 amended by Nos 9023 s. 40(Sch. 1 Pt A item 6(b)), 9098 s. 9(1)(a)–(c), 9571 s. 3, substituted by No. 10092 s. 9(1) (as amended by No. 10160 s. 6(a)–(d)).

- (1) The occupier of a scheduled premises must not undertake at those premises—
- (a) the discharge, emission or deposit of waste to the environment; or
 - (b) the reprocessing, treatment, storage, containment, disposal or handling of waste; or
 - (c) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or potential danger to the quality of the environment or any segment of the environment; or
 - (d) an activity which creates a state of potential danger to the quality of the environment or any segment of the environment—

S. 20(1) substituted by No. 61/2006 s. 8(1).

unless licensed to do so under this Act.

* * * * *

S. 20(2) repealed by No. 61/2006 s. 8(1).

Environment Protection Act 1970
No. 8056 of 1970
Part III—Environment protection

S. 20(3)
repealed by
No. 10261
s. 8(3).

* * * * *

S. 20(3A)
inserted by
No. 10261
s. 9(1),
repealed by
No. 61/2006
s. 8(1).

* * * * *

S. 20(3B)
inserted by
No. 86/1990
s. 4(b),
repealed by
No. 61/2006
s. 8(1).

* * * * *

- (4) An application for a licence under this section shall be—
- (a) made in accordance with a form and in a manner approved by the Authority; and
 - (b) accompanied by such plans, specifications and other information and a summary thereof as may be required by the Authority within 21 days of receiving the initial application.
- (5) The Authority shall not deal with an application which—
- (a) does not comply with subsection (4); or
 - (b) except as provided in subsection (7C) relates to a matter in respect of which—
 - (i) a works approval has been obtained and, in the opinion of the Authority, the works have not been satisfactorily completed in accordance with that works approval; or

S. 20(5)(b)
amended by
No. 22/1987
s. 8(a).

(ii) a works approval is required to be obtained and has not been obtained and the works have not been completed or substantially completed—

and shall advise the applicant accordingly.

(6) Where the Authority receives an application under this section which relates to a matter in respect of which a works approval is not required except an application referred to in subsection (8C), the Authority shall not later than 60 days after receiving the application—

S. 20(6)
amended by
No. 22/1987
s. 9(a).

(a) refuse to issue a licence; or

(b) issue a licence subject to such conditions as the Authority considers appropriate.

S. 20(6)(b)
amended by
No. 87/1989
s. 14(a).

(7) Where the Authority receives an application under this section which relates to a matter in respect of which a works approval has been obtained and, in the opinion of the Authority, the works have been satisfactorily completed in accordance with the works approval the Authority shall not later than 21 days after receiving the application issue a licence subject to such conditions which are not inconsistent with any conditions specified in the works approval as the Authority considers appropriate.

S. 20(7)
amended by
No. 87/1989
s. 14(a).

(7A) Where the Authority receives an application following the issue of a works approval and the applicant subsequently notifies the Authority that the works have been satisfactorily completed in accordance with the works approval, the Authority shall not later than 45 days after being notified satisfy itself as to whether or not the works have been satisfactorily completed in accordance with the works approval and—

- (a) if the Authority is satisfied that the works have been satisfactorily completed, subsection (7) shall be deemed to apply to the application and the Authority shall be deemed to have received the application on the day on which it became so satisfied; or
 - (b) if the Authority is not satisfied that the works have been satisfactorily completed, the Authority shall advise the applicant accordingly.
- (7B) Unless an agreement is made under section 67A, if at the expiry of the period of 45 days specified in subsection (7A) the Authority has not made a decision as to whether or not the works have been satisfactorily completed, the Authority shall upon that expiry be deemed to be satisfied that the works have been satisfactorily completed and subsection (7A)(a) shall apply accordingly.
- (7C) If a works approval has been obtained in respect of any premises, but only part of the works has been satisfactorily completed in accordance with the works approval, the Authority may issue a licence subject to any conditions that are not inconsistent with any conditions specified in the works approval that the Authority considers appropriate in respect of that part of the premises in which the works have been so completed.
- (8) Where the Authority receives an application under this section which relates to a matter in respect of which a works approval was required to be obtained and has not been obtained and the works have been completed or substantially completed the following provisions shall apply—
- (a) the Authority shall refer a copy of the application and a copy or summary of the accompanying plans, specifications and other information to—

S. 20(7C)
inserted by
No. 22/1987
s. 8(b),
amended by
No. 87/1989
s. 14(a).

- (i) any protection agency which the Authority considers may be directly affected by the application; and
 - (ii) if the Authority considers that the application, if it had been made under section 19B, would have been a significant works approval application within the meaning of that section, the Secretary to the Department of Health and Human Services; and
 - (iii) any responsible authority under the **Planning and Environment Act 1987** administering a planning scheme applying to the land for which the application is made;
- (b) the Authority shall publish in a newspaper circulating generally throughout Victoria notice—
- (i) that the Authority has received an application to which this subsection applies;
 - (ii) of the place or places at which a copy or a summary of the application and a copy or summary of the accompanying plans, specifications and other information may be examined;
 - (iii) that any person or body interested in the application may request and upon payment of the prescribed fee shall receive from the Authority a summary of the application and the accompanying plans, specifications and other information;

S. 20(8)(a)(ii) amended by Nos 10262 s. 4, 46/1998 s. 7(Sch. 1), 11/2002 s. 3(Sch. 1 item 22), 29/2010 s. 39, substituted by No. 51/2017 s. 31.

S. 20(8)(a)(iii) inserted by No. 45/1987 s. 205(Sch. item 21(a)).

S. 20(8)(b)(v)
amended by
Nos 22/1987
s. 7(c)(i)(ii),
87/1989
s. 11(2)(a)(i)(ii).

S. 20(8)(ba)
inserted by
No. 45/1987
s. 205(Sch.
item 21(b)).

S. 20(8)(c)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1),
11/2002
s. 3(Sch. 1
item 22),
29/2010 s. 39.

S. 20(8)(ca)
inserted by
No. 45/1987
s. 205(Sch.
item 21(c)).

- (iv) that any person or body interested in the application may within 21 days of the publication of the notice comment in writing on that application; and
 - (v) that any person or body interested in the application may ask the Authority in writing to be notified if the Authority issues a licence;
- (ba) a responsible authority to which a copy of an application has been referred under paragraph (a) of this subsection must make a copy of the application and a copy of all accompanying documents available at its office for any person to inspect free of charge;
- (c) the Secretary to the Department of Health and any protection agency to which a copy of an application has been referred under this subsection may within 21 days from the day upon which the copy was sent submit a written report to the Authority which may include any objection or recommendations in relation to the application;
- (ca) a responsible authority to which a copy of an application has been referred under paragraph (a) of this subsection must tell the Authority in writing within 21 days after the day on which the copy was sent whether—
- (i) the works are allowed by the planning scheme with or without conditions;
 - (ii) a permit is required under the **Planning and Environment Act 1987** for the works;
 - (iii) a permit has been issued under the **Planning and Environment Act 1987** for the works;

- (iv) the responsible authority is considering an application for a permit under the **Planning and Environment Act 1987** for the works; and
- (v) the works are prohibited by the planning scheme;
- (cb) the responsible authority may also—
- (i) tell the Authority in writing within 45 days after the day on which the copy of the application was sent whether it supports, does not object or objects to the application; and
- (ii) ask the Authority in writing within 45 days after the day on which the copy of the application was sent to include specified conditions in the licence if it is issued;
- (cc) the responsible authority must give the Authority a copy of any permit issued under the **Planning and Environment Act 1987** for the works;
- (d) the Authority shall—
- (i) take into account any replies, reports, comments and information received under paragraph (c), (ca), (cb) or (cc); and
- (ii) where the Secretary to the Department of Health submits a written report objecting to the granting of the application on the ground that the public health is likely to be endangered if a licence is issued, refuse to issue a licence; and
- S. 20(8)(cb) inserted by No. 45/1987 s. 205(Sch. item 21(c)).
- S. 20(8)(cc) inserted by No. 45/1987 s. 205(Sch. item 21(c)).
- S. 20(8)(d)(i) substituted by No. 45/1987 s. 205(Sch. item 21(d)).
- S. 20(8)(d)(ii) amended by Nos 10262 s. 4, 46/1998 s. 7(Sch. 1), 11/2002 s. 3(Sch. 1 item 22), 29/2010 s. 39.

S. 20(8)(d)(iii)
inserted by
No. 45/1987
s. 205(Sch.
item 21(d)).

(iii) if the works are prohibited by a planning scheme, refuse to issue a licence;

S. 20(8)(e)
amended by
No. 45/1987
s. 205(Sch.
item 21(e)).

(e) at the expiration of 21 days from the publication of a notice under paragraph (b) the Authority may if any written comments have been received from any person or body interested in the application in accordance with paragraph (b)(iv) hold a conference in accordance with section 20B;

(f) the Authority shall not later than six months after receiving the application for a licence issue or refuse to issue a licence;

S. 20(8)(g)
inserted by
No. 45/1987
s. 205(Sch.
item 21(f)),
amended by
No. 87/1989
s. 15(a).

(g) if a planning scheme requires a permit to be obtained under the **Planning and Environment Act 1987** for the works and a permit has not been issued, a licence issued by the Authority under this subsection must be issued subject to a condition that the licence does not take effect until a copy of the permit is served on the Authority by the applicant; and

S. 20(8)(h)
inserted by
No. 45/1987
s. 205(Sch.
item 21(f)).

(h) any licence issued in contravention of paragraph (d)(iii) or (g) is void.

(8A) The Authority shall not deal with an application to which subsection (8) applies unless the applicant forwards to the Authority the fee which the Authority assesses to be the fee that would have been payable had the applicant applied for a works approval as required by section 19A.

- (8B) If the Authority receives requests under subsection (8)(b)(v), the Authority must notify the people and bodies who made the requests that it has issued a licence by—
- (a) sending notice of the issue to each person and body who made a request (or if a request is made by a number of people or bodies jointly, to a representative of those people or bodies); or
 - (b) publishing notice of the issue in a newspaper circulating generally throughout Victoria.
- (8C) Subsections (8) and (8B) with any necessary modifications apply to any application under this section for a licence—
- (a) in respect of premises which before 1 January 1985 were exempt from the requirement to hold a licence; and
 - (b) which relates to a matter for which works approval is not required.
- (9) During the currency of a licence the Authority may by notice in writing served upon the holder of a licence—
- (a) revoke or suspend the licence as it relates to a scheduled premises where—
 - (i) the Authority is satisfied that there has been a contravention of any of the conditions subject to which a works approval was issued to the holder of the licence;
 - (ii) the Authority is satisfied that there has been a contravention of any of the conditions to which the licence is subject;

S. 20(8B)
inserted by
No. 22/1987
s. 7(d),
substituted by
No. 87/1989
s. 11(2)(b),
amended by
No. 61/2006
s. 8(2).

S. 20(8C)
inserted by
No. 22/1987
s. 9(b).

S. 20(9)(a)
amended by
Nos 87/1989
s. 7(c),
61/2006
s. 8(3)(a).

S. 20(9)(a)(ii)
amended by
No. 87/1989
s. 14(c) (as
amended by
No. 86/1990
s. 13(2)(d)).

S. 20(9)(a)(iii)
amended by
No. 10261
s. 9(2).

(iii) a discharge, emission or deposit of waste or any category, type or volume of prescribed industrial waste is exempted by the regulations from requiring a licence under this section;

S. 20(9)(a)(iv)
amended by
No. 10261
s. 9(3),
substituted by
No. 61/2006
s. 8(3)(b).

(iv) the licence holder has ceased to—

(A) discharge, emit or deposit any waste to the environment; or

(B) use the premises for the reprocessing, treatment, storage, containment, disposal or handling of waste; or

(C) use the premises for the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment; or

(D) undertake any activity which creates a state of potential danger to the quality of the environment or any segment of the environment;

(v) the current business address of the licence holder is unknown; or

(vi) the annual licence fee has not been paid;

S. 20(9)(b)
amended by
No. 87/1989
ss 10(c), 14(b).

(b) revoke or amend any condition to which the licence is subject; or

S. 20(9)(c)
amended by
No. 87/1989
s. 14(c).

(c) attach new conditions to the licence.

- (9A) A notice under subsection (9)(a)(vi) may provide that if the annual licence fee is paid within such further period as is specified in the notice the notice shall not operate to revoke or suspend the licence.
- (10) During the currency of a licence the Authority may by notice in writing served upon the holder of a licence—
- (a) correct any—
 - (i) clerical mistake or unintentional error or omission;
 - (ii) figure or figures that have been miscalculated;
 - (iii) misdescription of any person, thing or property referred to—
in a licence;
 - (b) make an administrative change to the format of a licence which does not alter the obligations of the licence holder;
 - (c) delete any discharge point which is no longer in use; or
 - (d) make any amendment to a licence as a result of an exemption under the regulations.
- (11) If there are 2 or more licences under this section in respect of the same premises, the Authority may—
- (a) amalgamate the licences into one licence; and
 - (b) revoke the original licences.
- (11A) If a licence holder holds 2 or more licences under this section, the Authority may on the application of the licence holder—

S. 20(11)
inserted by
No. 87/1989
s. 15(b).

S. 20(11A)
inserted by
No. 61/2006
s. 8(4).

- (a) amalgamate the licences into one licence;
and
- (b) revoke the original licences.

S. 20(12)
inserted by
No. 87/1989
s. 15(b),
amended by
No. 61/2006
s. 8(5).

- (12) The date on which licences are amalgamated is deemed, for the purposes of section 24(1), to be the date on which the amalgamated licence was issued.

S. 20(13)
inserted by
No. 87/1989
s. 15(b).

- (13) If a licence is amalgamated before the anniversary of the day on which it was originally issued, the part of the fee which was paid for the licence which relates to the period between the amalgamation date and the anniversary of the day on which it was originally issued is to be credited towards the licence fees which become due and payable on the amalgamation date.

S. 20A
inserted by
No. 9098
s. 9(2),
substituted by
No. 10092
s. 9(1) (as
amended by
No. 10160
s. 6(e)–(h)),
amended by
No. 87/1989
s. 14(c).

20A Amendment of licence

- (1) The holder of a licence issued under section 20 may apply in writing to the Authority for an amendment of the licence by—

S. 20A(1)(a)
amended by
No. 87/1989
s. 10(d).

- (a) the revocation or amendment of any conditions to which the licence is subject; or

S. 20A(1)(b)
amended by
No. 61/2006
s. 9(1)(a).

- (b) the attachment of new conditions to the licence; or

S. 20A(1)(c)
inserted by
No. 61/2006
s. 9(1)(b).

- (c) the addition of a scheduled premises.

- (2) An application for the amendment of a licence under this section shall be—
- (a) made in accordance with a form and in a manner approved by the Authority;
 - (b) forwarded with the prescribed fee; and
 - (c) accompanied by such plans, specifications and other information and a summary thereof as may be required by the Authority within 21 days of receiving the initial application.
- (3) The Authority shall not deal with an application under this section which—
- (a) does not comply with subsection (2); or
 - (b) except as provided in subsection (5C) relates to a matter in respect of which—
 - (i) a works approval has been obtained and, in the opinion of the Authority, the works have not been satisfactorily completed in accordance with that works approval; or
 - (ii) a works approval is required to be obtained and has not been obtained and the works have not been completed or substantially completed—

S. 20A(3)(b)
amended by
No. 87/1989
s. 16(a).

and shall advise the applicant accordingly.

- (4) Where the Authority receives an application under this section which relates to a matter in respect of which a works approval is not required, the Authority shall not later than 60 days after receiving the application—
- (a) refuse to amend the licence; or
 - (b) amend the licence subject to any conditions that the Authority considers appropriate.

S. 20A(4)
amended by
No. 10261
s. 9(4),
substituted by
No. 22/1987
s. 10,
amended by
No. 87/1989
s. 14(a).

S. 20A(5)
amended by
No. 87/1989
s. 14(a).

- (5) Where the Authority receives an application under this section which relates to a matter in respect of which a works approval has been obtained and, in the opinion of the Authority, the works have been satisfactorily completed in accordance with the works approval, the Authority shall not later than 21 days after receiving the application amend the licence subject to such conditions which are not inconsistent with any conditions specified in the works approval as the Authority considers appropriate.
- (5A) Where the Authority receives an application following the issue of a works approval and the applicant subsequently notifies the Authority that the works have been satisfactorily completed in accordance with the works approval, the Authority shall not later than 45 days after being notified satisfy itself as to whether or not the works have been satisfactorily completed in accordance with the works approval and—
- (a) if the Authority is satisfied that the works have been satisfactorily completed, subsection (5) shall be deemed to apply to the application and the Authority shall be deemed to have received the application on the day on which it became so satisfied; or
 - (b) if the Authority is not satisfied that the works have been satisfactorily completed, the Authority shall advise the applicant accordingly.
- (5B) Unless an agreement is made under section 67A, if at the expiry of the period of 45 days specified in subsection (5A) the Authority has not made a decision as to whether or not the works have been satisfactorily completed, the Authority shall upon that expiry be deemed to be satisfied that the

works have been satisfactorily completed and subsection (5A)(a) shall apply accordingly.

- (5C) If a works approval has been obtained in respect of any premises, but only part of the works has been satisfactorily completed in accordance with the works approval, the Authority may amend a licence by including in the licence that part of the premises in which the works have been so completed.

S. 20A(5C)
inserted by
No. 87/1989
s. 16(b).

- (6) Where the Authority receives an application under this section which relates to a matter in respect of which a works approval was required to be obtained and a works approval has not been obtained and the works have been completed or substantially completed the following provisions shall apply—

- (a) the Authority shall refer a copy of the application and a copy or summary of the accompanying plans, specifications and other information to—

- (i) any protection agency which the Authority considers may be directly affected by the application; and
- (ii) if the Authority considers that the application, if it had been made under section 19B, would have been a significant works approval application within the meaning of that section, the Secretary to the Department of Health and Human Services; and

S. 20A(6)(a)(ii)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1),
11/2002
s. 3(Sch. 1
item 22),
29/2010 s. 40,
substituted by
No. 51/2017
s. 32.

S. 20A(6)(a)(iii)
inserted by
No. 45/1987
s. 205(Sch.
item 22(a)) (as
amended by
No. 5/1988
s. 9(a)).

(iii) any responsible authority under the
Planning and Environment Act 1987
administering a planning scheme
applying to the land for which the
application is made;

(b) the Authority shall publish in a newspaper
circulating generally throughout Victoria
notice—

(i) that the Authority has received an
application to which this subsection
applies;

(ii) of the place or places at which a copy
or a summary of the application and a
copy or summary of the accompanying
plans, specifications and other
information may be examined;

(iii) that any person or body interested in
the application may request and upon
payment of the prescribed fee shall
receive from the Authority a summary
of the application and the
accompanying plans, specifications and
other information;

(iv) that any person or body interested in
the application may within 21 days of
the publication of the notice comment
in writing on the application; and

(v) that any person or body interested in
the application may ask the Authority
in writing to be notified if the Authority
amends the licence;

S. 20A(6)(b)(v)
amended by
Nos 22/1987
s. 7(e)(i)(ii),
87/1989
s. 11(3)(a)(i)(ii).

(ba) a responsible authority to which a copy of an
application is referred under paragraph (a)
must make a copy of the application and a
copy of all accompanying documents

S. 20A(6)(ba)
inserted by
No. 45/1987
s. 205(Sch.
item 22(b)).

available at its office for any person to inspect free of charge;

- (c) the Secretary to the Department of Health and any protection agency to which a copy of an application has been referred under this subsection may within 21 days from the day upon which the copy was sent submit a written report to the Authority which may include any objections or recommendations in relation to the application; S. 20A(6)(c) amended by Nos 10262 s. 4, 46/1998 s. 7(Sch. 1), 11/2002 s. 3(Sch. 1 item 22), 29/2010 s. 40.
- (ca) a responsible authority to which a copy of an application has been referred under paragraph (a) must tell the Authority in writing within 21 days after the day on which the copy was sent whether— S. 20A(6)(ca) inserted by No. 45/1987 s. 205(Sch. item 22(c)).
- (i) the works are allowed by the planning scheme with or without conditions;
 - (ii) a permit is required under the **Planning and Environment Act 1987** for the works;
 - (iii) a permit has been issued under the **Planning and Environment Act 1987** for the works;
 - (iv) the responsible authority is considering an application for a permit under the **Planning and Environment Act 1987** for the works;
 - (v) the works are prohibited by the planning scheme;
- (cb) the responsible authority may also— S. 20A(6)(cb) inserted by No. 45/1987 s. 205(Sch. item 22(c)).
- (i) tell the Authority in writing within 45 days after the day on which the copy of the application was sent whether it supports, does not object or objects to the application; and

- (ii) ask the Authority in writing within 45 days after the day on which the copy of the application was sent to include specified conditions in any amendment of the licence;
- S. 20A(6)(cc) inserted by No. 45/1987 s. 205(Sch. item 22(c)).
- (cc) the responsible authority must give the Authority a copy of any permit issued under the **Planning and Environment Act 1987** for the works;
- (d) the Authority shall—
- S. 20A(6)(d)(i) substituted by No. 45/1987 s. 205(Sch. item 22(d)).
- (i) take into account any replies, reports, comments and information received under paragraphs (c), (ca), (cb) and (cc);
- S. 20A(6)(d)(ii) amended by Nos 10262 s. 4, 46/1998 s. 7(Sch. 1), 11/2002 s. 3(Sch. 1 item 22), 29/2010 s. 40.
- (ii) where the Secretary to the Department of Health submits a written report objecting to the granting of the application on the grounds that the public health is likely to be endangered if the licence is amended, refuse to amend the licence; and
- S. 20A(6)(d)(iii) inserted by No. 45/1987 s. 205(Sch. item 22(d)).
- (iii) if the works are prohibited by a planning scheme, refuse to amend the licence;
- S. 20A(6)(e) amended by No. 45/1987 s. 205(Sch. item 22(e)).
- (e) at the expiration of 21 days from the publication of a notice under paragraph (b) the Authority may if any written comments have been received from any person or body interested in the application in accordance with paragraph (b)(iv) hold a conference in accordance with section 20B;
- (f) the Authority shall not later than 6 months after receiving the application for the amendment of a licence refuse to amend the licence or amend the licence subject to such

conditions, limitations and restrictions if any as the Authority considers appropriate; and

- (g) if a planning scheme requires a permit to be obtained under the **Planning and Environment Act 1987** for the works and a permit has not been issued, any amendment of the licence by the Authority under this section must be subject to a condition that the amendment does not take effect until it is endorsed by the responsible authority administering the planning scheme to the effect that a permit has been issued under the scheme for the works; and

S. 20A(6)(g) inserted by No. 45/1987 s. 205(Sch. item 22(f)).

- (h) any amendment made to a licence in contravention of paragraph (d)(iii) or (g) is void.

S. 20A(6)(h) inserted by No. 45/1987 s. 205(Sch. item 22(f)).

- (7) The Authority shall not deal with an application to which subsection (6) applies unless the applicant forwards to the Authority the fee which the Authority assesses to be the fee that would have been payable had the applicant applied for a works approval as required by section 19A.

- (8) If the Authority receives requests under subsection (6)(b)(v), the Authority must notify the people and bodies who made the requests that it has made an amendment to a licence by—

S. 20A(8) inserted by No. 22/1987 s. 7(f), substituted by No. 87/1989 s. 11(3)(b), amended No. 61/2006 s. 9(2)(a).

- (a) sending notice of the amendment to each person and body who made a request (or if a request is made by a number of people or bodies jointly, to a representative of those people or bodies); or

S. 20A(8)(a) amended by No. 61/2006 s. 9(2)(b).

S. 20A(8)(b)
amended by
No. 61/2006
s. 9(2)(b).

- (b) publishing notice of the amendment in a newspaper circulating generally throughout Victoria.

S. 20AA
inserted by
No. 9988 s. 3,
repealed by
No. 10092
s. 9(1),
new s. 20AA
inserted by
No. 45/1987
s. 205(Sch.
item 23),
amended by
No. 92/1990
s. 128(Sch. 1
item 8.5).

20AA Joint advertisement

Any notice required to be given under section 19B(3)(b), 20(8)(b) or 20A(6)(b) may be combined with any notice—

- (a) relating to the same proposal; or
(b) of the preparation of an amendment to a planning scheme—

which is required to be given under the **Planning and Environment Act 1987** or the **Environment Effects Act 1978**.

S. 20B
inserted by
No. 9207 s. 3,
substituted by
No. 10092
s. 9(1).

20B Conferences

- (1) The Authority may if it is of the opinion that a conference of persons concerned in any matter under consideration by the Authority may assist in a just resolution of the matter, invite all or any of the interested parties to a conference.
- (2) All persons invited to attend a conference under this section shall be advised in writing of the time and place at which the conference is to be held.
- (3) A conference held under this section shall be presided over by the chief executive officer or a person nominated by the chief executive officer for the purpose.
- (4) The Authority shall take into consideration the discussions and resolutions of any conference under this section and the recommendations of any person presiding at that conference.

S. 20B(3)
amended by
No. 51/2017
s. 33.

20C Consideration of policy

S. 20C
inserted by
No. 10092
s. 9(1) (as
amended by
No. 10160
s. 6(f)).

(1) In this section—

S. 20C(1)
amended by
No. 10261
s. 10(a),
substituted by
No. 49/2000
s. 13.

authorisation means—

- (a) a works approval;
- (b) a licence;
- (ba) an accreditation;
- (c) a research, development and demonstration approval;
- (d) a permit to transport prescribed waste or prescribed industrial waste issued under Part IXA;

S. 20C(1)
def. of
authorisation
amended by
No. 61/2006
s. 10.

relevant offence means—

- (a) an indictable offence;
- (b) an offence committed outside Victoria that would have been an indictable offence if it had been committed in Victoria on the date it was committed;
- (c) a summary offence under this Act, the **Dangerous Goods Act 1985**, the **Occupational Health and Safety Act 2004** or the **Equipment (Public Safety) Act 1994**.

S. 20C(1)
def. of
relevant offence
amended by
No. 107/2004
s. 179.

S. 20C(2)
amended by
No. 10261
s. 10(b),
substituted by
No. 49/2000
s. 13.

(2) In considering an application for the issue, transfer or amendment of an authorisation, the Authority must have regard to policy so that the authorisation and any condition in, or relating to, the authorisation is consistent with all applicable policies.

S. 20C(3)
amended by
Nos 10261
s. 10(c),
87/1989 s. 17,
substituted by
No. 49/2000
s. 13.

(3) The Authority may refuse to issue, transfer or amend an authorisation—

(a) if, in the opinion of the Authority, the issue, transfer or amendment would—

(i) be contrary to, or inconsistent with, any applicable policy; or

(ii) be likely to cause, or to contribute to, pollution; or

(iii) be likely to cause an environmental hazard; or

(iv) be likely to endanger public health; or

S. 20C(3)(a)(iv)
inserted by
No. 51/2017
s. 34.

(b) if the person applying for the issue or amendment, or in the case of a transfer, the person to whom the authorisation is to be transferred—

(i) has been found guilty of one or more relevant offences in the 10 years immediately before the date the Authority received the application; and

(ii) as a result, the person is, in the opinion of the Authority, not a fit and proper person to hold the authorisation, or in the case of an application for amendment, to hold the authorisation in the amended form; or

- (c) if the person applying for the issue, transfer or amendment is a corporation, and any director or person who is concerned in the management of the corporation—
- (i) has been found guilty of one or more relevant offences in the 10 years immediately before the date the Authority received the application; and
 - (ii) as a result, the director or other person is, in the opinion of the Authority, not a fit and proper person to be involved in a corporation holding the authorisation, or in the case of an application for amendment, holding the authorisation in the amended form.

(3A) Despite anything to the contrary in subsection (2) or (4), in issuing, transferring or amending an authorisation, the Authority may impose conditions in relation to the authorisation that require the observance of standards that are more stringent than would be required by the applicable policy if the Authority is satisfied that—

S. 20C(3A)
inserted by
No. 49/2000
s. 13.

- (a) local environment conditions require a higher level of protection than would otherwise be provided; or
- (b) the pollution control technology or noise control technology required to achieve more stringent standards is commonly available in the industry.

(4) Where a policy is declared or varied the Authority shall within such period of time as is reasonably practicable amend any licence which is in force so that the licence and any conditions to which the licence is subject are consistent with the policy.

S. 20C(4)
amended by
Nos 10261
s. 10(d)(e),
22/1987
s. 22(c).

S. 20C(5)
substituted by
No. 10261
s. 10(f).

- (5) If the Authority amends a licence for the purposes of subsection (4) the Authority must if requested allow the holder of the licence as a condition of the licence a reasonable time within which to comply with the amendments.

S. 21
substituted by
No. 10092
s. 9(1).

21 Special conditions

S. 21(1)
amended by
No. 61/2006
s. 11(a).

- (1) In issuing a works approval or a licence or amending a licence the Authority may specify that the works approval or licence or the amendment of the licence is subject to compliance, by the occupier of the premises in respect of which the works approval or licence relates with such of the following conditions as the Authority specifies—

- (a) the occupier shall install pollution control equipment of a type specified by the Authority provided that such equipment is reasonably available;
- (b) the occupier shall install and operate pollution control equipment in a manner specified by the Authority;

S. 21(1)(ba)
inserted by
No. 20/1988
s. 9(1).

- (ba) if the premises are—

S. 21(1)(ba)(i)
amended by
No. 87/1989
s. 18,
substituted by
No. 61/2006
s. 11(b).

- (i) a scheduled premises prescribed as a scheduled premises requiring a financial assurance; or

- (ii) premises at which more than the prescribed quantity or the prescribed concentration of a notifiable chemical are stored, processed or used—

S. 21(1)(ba)(ii)
amended by
No. 61/2006
s. 11(c).

the occupier must provide the Authority with a financial assurance satisfactory to the Authority in accordance with section 67B;

- (c) the occupier shall take the measures specified by the Authority for the purpose of minimizing the possibility of pollution occurring as a result of any activity conducted or proposed to be conducted in any part of the premises;
- (d) the occupier shall at the occupier's cost provide monitoring equipment specified by the Authority;
- (e) the occupier shall at the occupier's cost carry out a monitoring program specified by the Authority for the purpose of providing the Authority with data and information relating to the characteristics, volume and effects of the waste to be or being discharged, emitted or deposited into the environment and the characteristics of that environment or relating to the characteristics, volume and effects of prescribed industrial waste being reprocessed, treated, stored, contained, disposed of or handled at the premises; and
- (f) the occupier shall do or cause to be done any other act or thing specified by the Authority which the Authority considers necessary for the purpose of the protection of the environment or the prevention, control or abatement of pollution.

S. 21(1)(e)
amended by
Nos 10261
s. 11(1),
61/2006
s. 11(d).

- (2) All data and information recorded by a monitoring program shall be supplied to the Authority—
- (a) at the intervals of time; and
 - (b) in the form and manner—
- specified by the Authority in the works approval or licence.
- (3) Without derogating from the generality of subsection (2), the Authority may specify in the works approval or licence that the results of a monitoring program shall be submitted in a report of a person or body registered by the National Association of Testing Authorities in respect of the testing required for that program.

S. 22
substituted by
No. 10092
s. 9(1).

22 Power of Authority to require further information

- (1) The Authority may by notice in writing served on an applicant for a works approval, the issue of a licence, the amendment of a licence or the transfer of a licence require that applicant—
- (a) to supply to the Authority within the time specified in the notice any information, plans and specifications specified in the notice which the Authority considers necessary and relevant to the consideration of the application; and
 - (b) participate in and where the Authority considers it appropriate bear the cost of a course of study as specified in the notice to enable the Authority to assess the likely effects of any discharge, emission or deposit of waste into the environment or of the reprocessing, treatment, storage or disposal of prescribed industrial waste on the environment.

S. 22(1)(b)
amended by
No. 10261
s. 11(2).

- (2) Where an applicant does not comply with a notice served under subsection (1) within the period of time specified in the notice any time limit imposed by this Act on the Authority in respect of that application shall be extended by the period of time after the expiry of that period for which the applicant continues that failure to comply.

23 Register of works approvals and licences

The Authority shall keep registers of works approvals and licences as are prescribed.

S. 23
substituted by
No. 10092
s. 9(1).

23A Surrender of licence

- (1) The holder of a licence may apply in writing to the Authority to be permitted to surrender the licence and upon the Authority accepting the surrender of the licence the licence shall cease to be in force.
- (2) The holder of a licence which applies in respect of more than one scheduled premises may apply in writing to the Authority to be permitted to surrender that part of the licence which relates to the scheduled premises the subject of the application.
- (3) If the Authority accepts an application under subsection (2), the licence ceases to apply to the scheduled premises the subject of the application.

S. 23A
inserted by
No. 10092
s. 9(1),
amended by
No. 61/2006
s. 12 (ILA
s. 39B(1)).

S. 23A(2)
inserted by
No. 61/2006
s. 12.

S. 23A(3)
inserted by
No. 61/2006
s. 12.

24 Fees in respect of licences and works approvals

- (1) The fee prescribed in respect of a licence is due and payable—

S. 24
amended by
Nos 9207 s. 4,
9623 s. 2,
substituted by
No. 10092
s. 9(1).

S. 24(1)
substituted by
No. 20/1994
s. 11.

S. 24(1)(a)
substituted by
No. 7/2001
s. 17(1).

(a) on the day on which it is issued and annually on the date fixed by the Authority while the licence continues in force; or

(b) if an application under subsection (1A) is granted, on such days and in instalments of such amounts (including an amount for interest on the balance at a rate not exceeding the rate per centum per annum as is prescribed from time to time for the purposes of section 172(2) of the **Local Government Act 1989** as is determined by the Authority) as the Authority determines.

S. 24(1A)
inserted by
No. 20/1994
s. 11.

(1A) An applicant for a licence or the holder of a licence may on the ground of financial hardship apply by an application to the Authority in the form and manner approved by the Authority accompanied by such information as may be required by the Authority to pay the fee by instalments.

S. 24(2)
amended by
Nos 10261
s. 12(a),
87/1989
s. 19(b),
86/1990
s. 6(1)(a),
substituted by
No. 61/2006
s. 13(1).

(2) The licence fee prescribed in respect of each licensed scheduled premises must not exceed 42 000 fee units with respect to each element of the environment being the atmosphere, land or waters to which waste is licensed to be discharged, emitted or deposited.

S. 24(2A)
inserted by
No. 10261
s. 12(b),
amended by
Nos 87/1989
s. 19(c),
86/1990
s. 6(1)(a),
substituted by
No. 61/2006
s. 13(1).

(2A) The licence fee prescribed in respect of a scheduled premises must not exceed 42 000 fee units with respect to each licensed scheduled premises used to reprocess, treat, store, contain, dispose of or handle waste, or substances which are a danger or potential danger to the quality of the environment or any segment of the environment.

- (2B) The Authority may reduce the licence fee which is otherwise payable in respect of a licence if the Authority is satisfied upon application to the Authority for a reduction that in all the circumstances it is reasonable to do so. **S. 24(2B) inserted by No. 86/1990 s. 6(2).**
- (3) Where the fee required to be paid under subsection (1) is not paid within one month of that fee becoming due and payable the amount of the fee which is outstanding shall bear interest at such rate per centum per annum as is prescribed from time to time for the purposes of section 172(2) of the **Local Government Act 1989**. **S. 24(3) amended by No. 12/1989 s. 4(1)(Sch. 2 item 37.1).**
- (4) The fee prescribed in respect of an application for a works approval shall not exceed 4500 fee units. **S. 24(4) amended by No. 87/1989 s. 19(d).**
- (5) Where the Minister certifies that a body corporate or unincorporate—
- (a) exists for a public, charitable or philanthropic purpose;
 - (b) is not conducted for profit;
 - (c) is financed primarily and principally by donation from members of the public and subscriptions from its members; and
 - (d) the payment of a fee otherwise payable under this Part by that body would be onerous having regard to its limited financial resources—

the Governor in Council may on the recommendation of the Minister by Order in Council published in the Government Gazette exempt that body from the payment of any fee.

S. 24(6)
substituted by
No. 61/2006
s. 13(2).

- (6) If a licence is—
- (a) surrendered, or in the case of a licence amalgamated under section 20(11A), partly surrendered; or
 - (b) revoked, or in the case of a licence amalgamated under section 20(11A), partly revoked, as the result of an exemption by the regulations—

the person who held the licence is, from money lawfully available for the purpose, to be refunded a sum of money calculated from the day the Authority accepted the surrender or the revocation took effect at the rate of one-twelfth of the last annual fee paid in respect of the licence for each remaining whole month of the period in respect of which the fee was paid but no refund is payable if the sum calculated in accordance with this subsection is less than one-twelfth of the last annual fee paid.

- (7) Where as a result of a licence being amended the annual fee payable is reduced the holder of the licence shall from money lawfully available for the purpose be refunded a sum of money calculated from the day the Authority amended the licence which represents the difference between the amount paid and the annual fee payable for the amended licence but no refund shall be payable if the sum calculated in accordance with this subsection is less than \$10.
- (8) Where as a result of a licence being amended the annual fee payable is increased, the holder of the licence must within 14 days of the day on which the Authority amended the licence pay to the Authority an amount calculated from the day the Authority amended the licence which represents the difference between the annual fee payable for the amended licence and the amount already paid.

S. 24(8)
inserted by
No. 86/1990
s. 7.

24A Environment protection levy

S. 24A
inserted by
No. 87/1989
s. 20.

(1) Subject to and in accordance with this section, there is to be charged, levied and collected by the Authority a levy at the rate of 3 per cent of the licence fee payable under section 24 in respect of any scheduled premises prescribed as a scheduled premises in respect of which the levy is required to be paid.

S. 24A(1)
substituted by
No. 61/2006
s. 14(1).

(2) The levy is payable at the same time as the licence fee is payable under section 24.

(3) The Authority may after having regard to the record of compliance with the conditions applying to a licence in respect of any scheduled premises liable to pay the levy, exempt those scheduled premises in whole or in part from the payment of the levy as the Authority sees fit.

S. 24A(3)
amended by
No. 61/2006
s. 14(2).

(4) If the levy in respect of any scheduled premises is not paid at the same time as the licence fee is payable under section 24 the Authority must suspend the licence or the application of the licence to the extent that it applies to those premises until the levy is paid and the amount of the levy which is outstanding shall bear interest at such rate per centum per annum as is prescribed from time to time for the purposes of section 172(2) of the **Local Government Act 1989**.

S. 24A(4)
amended by
No. 61/2006
s. 14(2)(3).

25 Transfer of works approvals or licences

S. 25
substituted by
No. 10092
s. 9(1).

- (1) An application for the transfer of a works approval or a licence shall be—
- (a) made in accordance with a form and in a manner approved by the Authority;
 - (b) accompanied by the prescribed fee; and

(c) accompanied by such plans, specifications and other information as the Authority may require.

(2) The Authority may—

(a) refuse to transfer the works approval or licence; or

S. 25(2)(b)
amended by
No. 61/2006
s. 15(1)(a).

(b) transfer the works approval or licence subject to such conditions if any as the Authority considers appropriate; or

S. 25(2)(c)
inserted by
No. 61/2006
s. 15(1)(b).

(c) refuse to transfer and issue a new licence in respect of a scheduled premises currently included in a licence amalgamated under section 20(11A); or

S. 25(2)(d)
inserted by
No. 61/2006
s. 15(1)(b).

(d) transfer and issue a new licence in respect of a scheduled premises currently included in a licence amalgamated under section 20(11A) subject to any conditions that the Authority considers appropriate.

S. 25(3)
amended by
Nos 10261
s. 13(1)(a)(i)(ii)
87/1989
s. 14(a),
substituted by
No. 61/2006
s. 15(2).

(3) If a person who becomes the occupier of any premises in respect of which a licence is in force complies with the conditions of the licence previously in force and within 30 days of becoming the occupier of the premises applies under subsection (1) for the transfer of the licence or applies for the issue of a new licence, the person is not liable to any penalty under this Act for—

(a) the discharge, emission or deposit of waste to the environment; or

(b) the reprocessing, treatment, storage, containment, disposal or handling of waste; or

(c) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential

danger to the quality of the environment or any segment of the environment; or

- (d) any activity which creates a state of potential danger to the quality of the environment or any segment of the environment—

without a licence.

- (4) If the Authority refuses to transfer a licence or issue a new licence to a person to whom subsection (3) applies, the person must within 10 days of receiving notice of that refusal cease—

S. 25(4)
amended by
No. 10261
s. 13(1)(b),
substituted by
No. 61/2006
s. 15(2).

- (a) the discharge, emission or deposit of waste to the environment; or

- (b) the reprocessing, treatment, storage, containment, disposal or handling of waste; or

- (c) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment; or

- (d) any activity which creates a state of potential danger to the quality of the environment or any segment of the environment.

* * * * *

S. 25A
inserted by
No. 9098
s. 10(1),
repealed by
No. 10092
s. 9(1).

26 Duration of licence

A licence shall remain in force until revoked, suspended or surrendered.

S. 26
amended by
Nos 9098
s. 10(2), 9988
s. 4,
substituted by
No. 10092
s. 9(1).

Division 4—Accreditation

Pt 3 Div. 4
(Heading)
inserted by
No. 49/2000
s. 12(d),
amended by
No. 61/2006
s. 16.

26A Application for accreditation

S. 26A
inserted by
No. 20/1994
s. 12.

S. 26A(1)
substituted by
No. 61/2006
s. 17.

- (1) The holder of a licence may apply to the Authority for the accreditation of a licence as it relates to a particular scheduled premises.
- (2) An application must be—
 - (a) made in accordance with a form and in a manner approved by the Authority; and
 - (b) accompanied by a fee of 100 fee units; and
 - (c) accompanied by such information as may be required by the Authority within 21 days of receiving the initial application.
- (3) The Authority must not deal with an application which does not comply with subsection (2) and must advise the applicant that the application does not comply with subsection (2).
- (4) Section 22 extends and applies in respect of an applicant for accreditation.

26B Grant of accreditation

S. 26B
inserted by
No. 20/1994
s. 12.

S. 26B(1)(a)
amended by
No. 61/2006
s. 18(1).

- (1) The Authority may grant accreditation if the Authority is satisfied that the licence holder—
 - (a) has demonstrated a high level of environmental performance at the particular premises which is the subject of the application; and

- (b) can demonstrate an ongoing capacity to maintain and improve environmental performance at the particular premises which is the subject of the application. **S. 26B(1)(b) amended by No. 61/2006 s. 18(1).**
- (2) The following are to be considered in determining environmental performance for the purposes of subsection (1)—
- (a) whether the applicant has a suitable environmental management system in place which is certified by a person approved by the Authority;
 - (b) whether the applicant is undertaking an environmental audit program approved by the Authority with the participation of an environmental auditor;
 - (c) whether the applicant has prepared or is preparing an environment improvement plan which includes the matters specified in section 31C(6) and which is approved or is likely to be approved by the Authority.
- (3) The Authority must within 14 days of granting an application for accreditation publish a notice in the Government Gazette specifying the name of the licence holder and the location of the premises in respect of which accreditation is granted. **S. 26B(3) amended by No. 61/2006 s. 18(2).**

* * * * *

S. 26C inserted by No. 20/1994 s. 12, amended by No. 49/2000 s. 3(2)(3), repealed by No. 61/2006 s. 24(1).

S. 26D
inserted by
No. 20/1994
s. 12,
substituted by
No. 61/2006
s. 19.

26D Administrative arrangements

- (1) A licence holder is entitled to pay a reduced licence fee calculated in accordance with the regulations in respect of an accreditation.
- (2) Notwithstanding anything to the contrary in this Act, a licence holder may undertake works at a premises to which an accreditation relates and which is occupied by the licence holder without obtaining a works approval or a research, development and demonstration approval as otherwise required by this Act unless the works—
 - (a) are significant works; or
 - (b) would result in an increase in the type, amount or concentration of waste above that permitted to be discharged, emitted, deposited, reprocessed, treated, stored, contained, disposed of or handled under the licence or in a breach of any condition to which the licence is subject.
- (3) For the purposes of subsection (2), *significant works* means works which—
 - (a) would substantially change the nature of the process being conducted at the premises to which an accreditation relates; or
 - (b) would result in a major change in the type, amount or concentration of discharges; or
 - (c) would require a works approval under section 19A(1)(d).

26E Review of accreditation

- (1) The Authority must review an accreditation within 5 years of the grant of accreditation or the last review of accreditation.
- (2) The Authority may at any time review an accreditation if the Authority is not satisfied that the licence holder meets the requirements of section 26B.
- (3) The Authority must give the licence holder notice of a review under this section.
- (4) The licence holder must satisfy the Authority that the requirements of section 26B are met.
- (5) If the Authority is not satisfied, the Authority must cancel the accreditation.

S. 26E
inserted by
No. 20/1994
s. 12,
substituted by
No. 61/2006
s. 19.

* * * * *

Pt 3 Div. 4A
(Heading and
ss 26F–26Q)
inserted by
No. 61/2006
s. 33,
repealed by
No. 20/2014
s. 17.

Division 5—Offences and powers of the Authority

Pt 3 Div. 5
(Heading)
inserted by
No. 49/2000
s. 12(e).

27 Offences

S. 27
amended by
Nos 9098
s. 11, 9758
s. 3(a)–(c),
9988 s. 5,
substituted by
No. 10092
s. 9(1).

S. 27(1)
amended by
Nos 87/1989
s. 21, 86/1990
ss 4(c), 5(a)(b),
49/2000
s. 3(15)(Sch.
item (4)
(a)–(c)),
substituted by
No. 61/2006
s. 20,
amended by
No. 68/2009
s. 97(Sch.
item 50.3).

- (1) A person who is the occupier of a scheduled premises at or from which waste is discharged, emitted or deposited to the environment—
- (a) without a licence where a licence is required by this Act; or
 - (b) while the licence is suspended—
- is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the accused of notice of contravention of this section.

S. 27(1A)
inserted by
No. 10261
s. 13(2),
amended by
Nos 86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (4)
(a)–(c)),
substituted by
No. 61/2006
s. 20,
amended by
No. 68/2009
s. 97(Sch.
item 50.3).

- (1A) A person who is the occupier of a scheduled premises at which waste is, or substances which are a danger or potential danger to the quality of the environment or any segment of the environment are, reprocessed, treated, stored, contained, disposed of or handled—
- (a) without a licence where a licence is required by this Act; or
 - (b) while the licence is suspended—
- is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the accused of notice of contravention of this section.

(1B) A person who is the occupier of a scheduled premises and undertakes an activity which creates a state of potential danger to the quality of the environment or any segment of the environment—

(a) without a licence where a licence is required by this Act; or

(b) while the licence is suspended—

is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the accused of notice of contravention of this section.

(2) A holder of a licence who contravenes any condition to which the licence is subject shall be guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the accused of notice of contravention of the condition.

(3) Where—

(a) premises are shared by a corporation and a subsidiary or subsidiaries of that corporation;

(b) one of those corporations is the holder of a licence under this Act in respect of those premises; and

S. 27(1B)
inserted by
No. 61/2006
s. 20,
amended by
No. 68/2009
s. 97(Sch.
item 50.3).

S. 27(2)
amended by
Nos 87/1989
ss 7(d)(i)(ii) (as
amended by
No. 86/1990
s. 13(2)(a)),
14(b), 86/1990
s. 5(a)(b),
20/1994
s. 17(a),
49/2000
s. 3(15)(Sch.
item 4)
(a)–(c),
68/2009
s. 97(Sch.
item 50.3).

S. 27(3)
amended by
No. 87/1989
s. 7(e)(i)(ii).

S. 27(3)(c)
amended by
No. 87/1989
s. 14(b).

(c) there occurs on the premises a contravention of a condition to which the licence is subject—

the holder of the licence shall in the absence of evidence to the contrary be deemed to have caused that contravention.

S. 27(4)
amended by
Nos 65/1996
s. 30(1)(f),
44/2001
s. 3(Sch.
item 37.1).

(4) For the purposes of subsection (3) a corporation is a subsidiary of another corporation if the corporation is a subsidiary of the corporation within the meaning of the Corporations Act.

S. 27A
inserted by
No. 10261
s. 13(3).

27A Offences relating to industrial waste

S. 27A(1)
amended by
Nos 20/1988
s. 4(c),
87/1989
s. 22(a),
86/1990
s. 5(a)(b),
substituted by
No. 49/2000
s. 14,
amended by
No. 68/2009
s. 97(Sch.
item 50.4).

(1) A person who—

S. 27A(1)(a)
substituted by
No. 37/2002
s. 11(o).

- (a) contravenes any rules or requirements relating to industrial waste specified in a waste management policy; or
- (b) contravenes any regulations relating to industrial waste; or
- (c) causes or permits an environmental hazard—
- is guilty of an indictable offence.

Penalty: 2400 penalty units plus, in the case of a continuing offence, a daily penalty of 1200 penalty units for each day the

offence continues after conviction or after service by the Authority on the accused of notice of contravention of this subsection (whichever is the earlier).

- (2) Any person who dumps, deposits, discards or abandons or permits to be dumped, deposited, discarded or abandoned a particular kind of industrial waste—

S. 27A(2)
amended by
Nos 20/1988
s. 10(a),
87/1989
s. 22(b),
86/1990
s. 5(c),
49/2000
s. 3(4), 7/2001
s. 18(a),
61/2006 s. 48,
68/2009
s. 97(Sch.
item 50.5).

- (a) at a place not being a site licensed to accept industrial waste of that kind under this Act;
or
- (b) at a site which is licensed to accept industrial waste under this Act without the knowledge or consent of the licence holder—

S. 27A(2)(a)
amended by
No. 7/2001
s. 18(b).

is guilty of an indictable offence.

Penalty: 5000 penalty units, plus in the case of a continuing offence, 2500 penalty units for each day the offence continues after conviction or after service by the Authority on the accused of notice of contravention of this section (whichever is the earlier).

28 Orders to public authorities etc. to curtail services etc.

S. 28(1)
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 37.2),
87/1989
ss 7(f), 14(c).

(1) The Authority may by notice in writing order any municipal council or any body established under any Act for a public purpose which has contravened any of the conditions to which a licence issued to it under this Act is subject—

(a) to make no further connexions to or arrange no new collections for its waste collection and treatment system; or

S. 28(1)(b)
amended by
No. 9427
s. 6(1)(Sch. 5
item 53).

(b) to refrain from issuing further building permits which would result in additions to the waste discharge or the waste treatment loading until its waste discharge is brought into compliance with the conditions of its licence.

S. 28(2)
amended by
Nos 9023
s. 40(Sch. 1
Pt A item 6(c)),
10262 s. 4,
46/1998
s. 7(Sch. 1),
11/2002
s. 3(Sch. 1
item 22),
29/2010 s. 41.

(2) Upon the recommendation of the Secretary to the Department of Health that a waste discharge is or is likely to become a danger to public health the Authority shall by notice in writing order the person discharging the waste to cease discharging the waste or to alter the constituency or volume of the discharge (as the case requires).

(3) The Authority may by notice in writing to any body having jurisdiction and control over a drainage system define the extent to which the drainage system is required to be licensed under this Act.

S. 28(4)
amended by
No. 12/1989
s. 4(1)(Sch. 2
items 37.3,
37.4).

(4) A notice under the foregoing provisions of this section addressed to a municipal council or to a body established under any Act for a public purpose shall bind all staff of the municipal council or officers of the body who shall comply with the requirements of the notice.

- (5) The Authority may assign to a body or bodies having jurisdiction over a drain or drainage system duties with respect to the management and control of discharges into such drain or drainage system and may delegate to such body or bodies such powers duties and functions of the Authority (including its powers under this section) as the Authority considers necessary in that behalf.

28A Power to require information

- (1) The Authority may by notice in writing require a sewerage authority or the occupier of any premises from which waste is discharged into the works of a sewerage authority to supply to the Authority within the time specified in the notice the information specified in the notice with respect to—
- (a) any agreement entered into with or by the sewerage authority;
 - (b) any consent or approval given by the sewerage authority; and
 - (c) any waste being discharged pursuant to the agreement, consent or approval into the works of the sewerage authority.
- (2) For the purposes of this section and section 28B—

S. 28A
inserted by
No. 10092
s. 10.

S. 28A(2)
amended by
No. 81/1989
s. 3(Sch.
item 12.3).

sewerage authority means an Authority, within the meaning of the **Water Act 1989** that has a sewerage district under that Act;

S. 28A(2)
def. of
*sewerage
authority*
substituted by
Nos 49/2000
s. 15(a),
17/2012 s. 85.

works means any sewer, drain or treatment works under the management and control of a sewerage authority.

S. 28B
inserted by
No. 10092
s. 10.

28B Abatement notice

- (1) Where the Authority is satisfied that any waste being discharged into the works of a sewerage authority—
- (a) is the cause of, or a significant contributing factor to, an occupier of a sewage treatment plant licensed under this Act that is connected to those works failing to comply with, or being in contravention of, any condition, limitation or restriction to which the licence is subject; or
 - (b) does not comply with any standard prescribed for the purposes of this section—

the Authority may serve an abatement notice upon the occupier of the premises from which the waste is being discharged.

- (2) An abatement notice served under this section may require the occupier of the premises on whom it is served to do any one or more of the following—
- (a) to ensure that the discharge to which the abatement notice relates—
 - (i) is reduced by an amount;
 - (ii) is reduced to a limit; or
 - (iii) is otherwise modified—as specified in the abatement notice;
 - (b) to submit to the Authority the information, including plans and specifications for plant and equipment, specified in the abatement notice with respect to the means whereby the discharge to which the abatement notice relates may be reduced or controlled as specified in the notice;

- (c) to install, alter, operate or maintain as the abatement notice may specify apparatus, plant or structures to prevent or control the discharge to which the abatement notice relates;
- (d) to provide monitoring equipment and to carry out a monitoring program as specified in the abatement notice;
- (e) to take such measures as specified in the abatement notice to control the quality or quantity of waste to which the notice relates.
- (3) The Authority may by notice of amendment in writing served on the occupier of any premises on whom an abatement notice under this section has been served—
- (a) extend the period if any for compliance with a requirement specified in the abatement notice where the Authority is satisfied that the circumstances of the case justify an extension of that period; or
- (b) revoke or amend any requirement specified in the abatement notice.
- (4) An abatement notice and any notice of amendment shall not take effect until a day specified in the abatement notice or notice of amendment being a day not less than 30 days after the day on which the abatement notice or notice of amendment is served.
- (5) An occupier upon whom an abatement notice or notice of amendment has been served who contravenes a requirement in the notice shall be guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to an additional daily penalty of not more than 1200 penalty units for each day upon which the
- S. 28B(3)
amended by
No. 87/1989
s. 10(e)(i)(ii).**
- S. 28B(4)
amended by
No. 87/1989
s. 10(f).**
- S. 28B(5)
amended by
Nos 87/1989
ss 7(g), 10(f),
23(a), 86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (5)
(a)–(c)).**

offence continues after conviction or after service by the Authority on that person of notice of contravention of this section.

S. 29
repealed by
No. 10092
s. 9(2).

* * * * *

S. 30
substituted by
No. 10092
s. 9(3),
amended by
Nos 10160
s. 4(l), 10261
s. 14(a)–(c),
substituted by
No. 87/1989
s. 24.

30 Liability of licence holder

(1) A licence holder is not liable to a penalty under this Act with respect to the discharge, emission or deposit of waste if the licence holder proves that the licence holder—

S. 30(1)(a)
amended by
No. 87/1989
s. 14(c).

- (a) complied with the conditions to which the licence is subject with respect to the discharge, emission or deposit; and
- (b) complied with any requirement contained in a notice served under section 31; and
- (c) complied with any requirement contained in a notice served under section 31A or 31B; and
- (d) did not discharge or emit odours which are offensive to the senses of human beings in a residential area or in a public open space adjacent to a residential area.

S. 30(2)
amended by
No. 87/1989
s. 14(c),
substituted by
No. 61/2006
s. 21.

(2) A licence holder is not liable to a penalty under this Act with respect to the reprocessing, treatment, storage, containment, disposal or handling of waste if the licence holder proves that the licence holder—

- (a) complied with the conditions to which the licence is subject with respect to reprocessing, treatment, storage, containment, disposal and handling; and

- (b) complied with any requirement contained in a notice served under section 31A or 31B;
and
- (c) did not discharge or emit odours which are offensive to the senses of human beings in a residential area or in a public open space adjacent to a residential area.

(2A) A licence holder is not liable to a penalty under this Act with respect to the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or potential danger to the quality of the environment or any segment of the environment if the licence holder proves that the licence holder—

S. 30(2A)
inserted by
No. 61/2006
s. 21.

- (a) complied with the conditions to which the licence is subject with respect to reprocessing, treatment, storage, containment, disposal and handling; and
- (b) complied with any requirement contained in a notice served under section 31A or 31B;
and
- (c) did not discharge or emit odours which are offensive to the senses of human beings in a residential area or in a public open space adjacent to a residential area.

(2B) A licence holder is not liable to a penalty under this Act with respect to an activity which creates a state of potential danger to the quality of the environment or any segment of the environment if the licence holder proves that the licence holder—

S. 30(2B)
inserted by
No. 61/2006
s. 21.

- (a) complied with the conditions to which the licence is subject with respect to that activity; and
- (b) complied with any requirement contained in a notice served under section 31A or 31B;
and

S. 30(3)
amended by
No. 86/1990
s. 8(a),
substituted by
No. 61/2006
s. 21.

- (c) did not discharge or emit odours which are offensive to the senses of human beings in a residential area or in a public open space adjacent to a residential area.
- (3) If a licence holder intends to prove any of the matters in subsection (1), (2), (2A) or (2B), the licence holder must within 21 days of the day on which the information alleging the offence is served on that person cause to be served on the informant a written statement specifying—
- (a) any details, documents or other information upon which the licence holder intends to rely to establish those matters during the relevant period; and
 - (b) details in respect of the relevant period of—
 - (i) the discharge, emission or deposit of waste to the environment; or
 - (ii) the reprocessing, treatment, storage, containment, disposal or handling of waste; or
 - (iii) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment; or
 - (iv) any activity which creates a state of potential danger to the quality of the environment or any segment of the environment; and
 - (c) details of documents relating to the matters specified in paragraphs (a) and (b).
- (4) The documents specified under subsection (3) must be made available for inspection by or on behalf of the informant.

(5) In subsection (3) *relevant period* means—

- (a) the day or days on which the alleged contravention occurred; and
- (b) the period of 2 days before and after each such day or days.

S. 30(5)(b)
amended by
No. 86/1990
s. 8(b).

30A Authority may authorise emergency storage, use etc. of waste

S. 30A
inserted by
No. 10092
s. 9(3).

(1) Despite anything to the contrary in or under this Act, the Authority may approve—

S. 30A(1)
substituted by
No. 65/1996
s. 5(1).

- (a) the discharge, emission or deposit of waste from any premises into the environment; or
- (b) the storage, treatment, handling or disposal of waste on or from any premises.

(1A) The Authority may only grant its approval under this section for the purposes of—

S. 30A(1A)
inserted by
No. 65/1996
s. 5(1).

- (a) meeting a temporary emergency; or
- (b) providing for the temporary relief of a public nuisance or community hardship; or
- (c) enabling the commissioning, repair, decommissioning or dismantling of any item of industrial plant or fuel burning equipment.

(1B) An approval has no effect unless the conditions to which it is subject are complied with.

S. 30A(1B)
inserted by
No. 65/1996
s. 5(1).

(2) An application for an approval under this section—

- (a) shall be made to the Authority in writing; and

(b) shall be dealt with by the Authority in a summary and expeditious manner without regard to legal forms and solemnities.

S. 30A(3)
substituted by
No. 65/1996
s. 5(2).

(3) The Authority must grant its approval if it is satisfied that the activity for which approval is sought will not cause a long term interference with any beneficial use if the approval is granted.

(4) The Authority may grant its approval subject to such conditions as the Authority considers appropriate.

S. 30A(5)
amended by
No. 65/1996
s. 5(3).

(5) An approval under this section shall be subject to a condition that the approved activity shall cease within 120 days of the day on which the approval is given.

S. 30B
inserted by
No. 10092
s. 9(3),
amended by
No. 10160
s. 4(m).

30B Defence to offence

(1) It shall be a defence to any offence under this Act if the person charged proves that—

S. 30B(1)(a)
amended by
No. 22/1987
s. 11.

(a) the discharge, emission or deposit of waste to which the charge relates occurred in an emergency to prevent danger to life or limb other than an emergency arising from the negligent act or omission of the person charged; and

(b) as soon as reasonably practicable after that discharge, emission or deposit of waste that person notified particulars thereof in writing to the Authority or the delegated agency as the case may be.

S. 30B(2)
amended by
No. 57/1989
s. 3(Sch. item
64.1).

(2) A person who intends to rely on the defence provided by this section may only do so if that person notifies the Authority of that intention within 7 days of the day on which the summons to answer to the charge is served on that person.

30C Notifiable chemicals

- (1) An occupier of any premises must not use the premises to process or store or conduct any operation involving the use of more than the prescribed quantity or the prescribed concentration of a notifiable chemical unless the occupier—
- (a) notifies the Authority of the intention to do so at least 30 days before commencing to do so;
 - (b) complies with any rules or requirements specified in any waste management policy; and
 - (c) provides the Authority with such information as the Authority may require including details of the methods proposed for the disposal of any waste within the time specified by the Authority in writing.
- (2) An occupier of any premises who contravenes subsection (1) is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to an additional daily penalty of not more than 1200 penalty units for each day upon which the offence continues after conviction or after service by the Authority on the occupier of notice of contravention of this section.

S. 30C
inserted by
No. 10261
s. 15.

S. 30C(1)(b)
amended by
No. 37/2002
s. 11(n).

S. 30C(2)
amended by
Nos 87/1989
s. 7(b),
86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (6)
(a)–(c).

S. 30C(3)
repealed by
No. 87/1989
s. 26(a).

* * * * *

30D Order relating to notifiable chemicals

- (1) If the Governor in Council is of the opinion that it is necessary to do so in order to prevent or abate a serious environmental hazard, the Governor in Council on the recommendation of the Authority

S. 30D
inserted by
No. 87/1989
s. 26(b).

may by Order published in the Government Gazette—

S. 30D(1)(b)
amended by
No. 49/2000
s. 16.

- (a) declare a chemical to be a notifiable chemical; and
- (b) prohibit absolutely or subject to conditions, the storage, handling, use or supply of that chemical during the period specified in the Order.

(2) Any order made by the Governor in Council under this section may by Order of the Governor in Council published in the Government Gazette be revoked or varied.

S. 30D(3)
amended by
Nos 86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (7)
(a)–(c).

(3) Any person who contravenes any provision of an Order made under this section is guilty of an indictable offence.

Penalty: 2400 penalty units and a daily penalty of not more than 1200 penalty units for each day during which the offence continues after conviction or after service by the Authority on the person of a notice of contravention (whichever is the earlier).

31 Authority may order licensed persons to cease discharge etc. in certain circumstances

S. 31(1)
amended by
No. 87/1989
s. 14(a).

(1) Where several persons are licensed under this Act to discharge, emit, or deposit wastes into the same segment or element of the environment and it appears to the Authority that each of such persons is complying with the conditions of his licence but nevertheless the collective effect of the aggregate of such wastes has caused or is likely to cause a condition in that segment or element of the environment which if it were caused by one person would make him guilty of an offence against this Act the Authority, by notice in writing served upon all or any of such persons, may direct

them or any one or more of them to take such action as is specified in the notice to eliminate or reduce the pollution so caused.

- (2) Any person upon whom a notice under this section is served who contravenes the requirements of the notice shall be guilty of an offence.

Penalty: 300 penalty units.

S. 31(2)
amended by
Nos 9758 s. 4,
87/1989
s. 7(b),
86/1990
s. 5(d),
49/2000
s. 3(15)(Sch.
item (8)).

31A Pollution abatement notice

S. 31A
inserted by
No. 10092
s. 11(1) (as
amended by
No. 10160
s. 7(1)).

- (1) If the Authority is satisfied that a process or activity which is being carried on or is proposed to be carried on, or any use or proposed use of any premises—

S. 31A(1)
substituted by
No. 10261
s. 16,
amended by
Nos 87/1989
s. 27(a),
61/2006
s. 49(1)(a)(b).

- (a) has caused or is likely to cause pollution (including unreasonable noise);

S. 31A(1)(a)
amended by
No. 49/2000
s. 11(1)(a).

- (b) has caused or is likely to cause a failure to comply with—

- (i) any standard prescribed by the regulations;

- (ia) section 45ZM;

S. 31A
(1)(b)(ia)
inserted by
No. 61/2006
s. 47(1),
substituted by
No. 27/2019
s. 5(1).

- (ii) any Order declaring policy;

Environment Protection Act 1970
No. 8056 of 1970
Part III—Environment protection

S. 31A(1)(b)(iii)
amended by
No. 86/1990
s. 13(1)(a).

(iii) any requirements contained in any policy; or

S. 31A(1)(b)(v)
inserted by
No. 7/2001
s. 9(1).

(iv) any condition in a licence or permit; or

(v) any neighbourhood environment improvement plan prepared as a result of a directed proposal; or

S. 31A(1)(d)
inserted by
No. 87/1989
s. 27(a),
amended by
No. 49/2000
s. 11(1)(b).

(c) has created or is likely to create an environmental hazard; or

(d) is subject to an Order in Council made under section 31C; or

S. 31A(1)(e)
inserted by
No. 49/2000
s. 11(1)(b).

(e) is causing, or is likely to cause, an emission of noise that the Authority considers is, or is likely to be, unreasonable in the circumstances—

the Authority may serve a pollution abatement notice on the occupier of those premises or on the person responsible for the process or activity carried on or proposed to be carried on, or on the person responsible for the use or proposed use of the premises, specifying the reason for which the pollution abatement notice is served.

S. 31A(1A)
inserted by
No. 49/2000
s. 11(2).

(1A) Despite subsection (1), the Authority may not serve a pollution abatement notice in respect of any noise, or likely noise, in respect of which a direction may be given under section 48A(6).

S. 31A(1B)
inserted by
No. 61/2006
s. 36(1),
repealed by
No. 20/2014
s. 18.

* * * * *

(2) A pollution abatement notice may require the person on whom it is served to do any one or more of the following—

S. 31A(2)
substituted by
No. 10261
s. 16,
amended by
No. 61/2006
s. 49(1)(c).

- (a) to cease carrying on or not commence the process, activity or use;
- (b) to carry on, modify or control the process, activity or use in the manner specified in the pollution abatement notice;
- (c) to supply to the Authority plans, specifications and other information as is specified in the pollution abatement notice showing how the process, activity or use will be carried on, modified or controlled;
- (d) to take the measures including the installation, alteration, maintenance or operation of any apparatus, plant or structures as may be specified in the pollution abatement notice;
- (e) to comply with—
 - (i) any standard prescribed by the regulations;

* * * * *

S. 31A(2)(e)(ia)
inserted by
No. 61/2006
s. 47(2),
repealed by
No. 27/2019
s. 5(2).

(ii) any Order declaring policy;

* * * * *

S. 31A
(2)(e)(iia)
inserted by
No. 61/2006
s. 36(2),
repealed by
No. 20/2014
s. 18.

S. 31A(2)(f)
substituted by
No. 49/2000
s. 11(3).

(iii) any rules or requirements contained in any policy; or

(iv) any condition in a licence or permit;

(f) to provide monitoring equipment, to carry out a monitoring program and to give the Authority specified results, measurements and information in relation to a monitoring program;

S. 31A(2)(g)
inserted by
No. 87/1989
s. 27(b),
amended by
No. 7/2001
s. 9(2).

(g) to comply with any requirement specified for the purpose of enforcing an environment improvement plan or a neighbourhood environment improvement plan prepared as a result of a directed proposal.

S. 31A(2A)
inserted by
No. 20/1988
s. 9(2),
amended by
No. 61/2006
s. 49(1)(d).

(2A) If premises are—

S. 31A(2A)(a)
amended by
No. 87/1989
s. 27(c),
substituted by
No. 61/2006
s. 22(1)(a).

(a) a scheduled premises prescribed as a scheduled premises requiring a financial assurance; or

(b) premises on which more than the prescribed quantity or the prescribed concentration of a notifiable chemical are stored, processed or used—

the pollution abatement notice may require the person on whom it is served to provide the Authority with a financial assurance satisfactory to the Authority in accordance with section 67B.

S. 31A(2B)
inserted by
No. 49/2000
s. 11(5),
amended by
No. 61/2006
s. 22(1)(b)(c).

(2B) If a premises emits noise and is used lawfully for a purpose for which a new use could not be established under a planning scheme under the **Planning and Environment Act 1987**, the Authority may take that fact into account in

deciding whether to issue a pollution abatement notice in respect of the noise emitted from that premises, or in deciding what is to be included in such a notice.

- (3) A requirement contained in a pollution abatement notice may be expressed to be general or limited in operation as to particular times, places or circumstances.
- (4) A pollution abatement notice may specify a period of time within which any requirement specified in the pollution abatement notice is to be complied with.
- (5) The Authority may by notice of amendment in writing served on the person on whom a pollution abatement notice has been served—
- (a) extend the period if any for compliance with a requirement specified in the pollution abatement notice if the Authority is satisfied that the circumstances of the case justify an extension of that period; and
 - (b) revoke or amend any requirement specified in the pollution abatement notice.
- (6) A pollution abatement notice and any notice of amendment of a pollution abatement notice shall not take effect until a day specified in the pollution abatement notice or notice of amendment being a day not less than 30 days after the day on which the pollution abatement notice or notice of amendment is served.

S. 31A(5)
amended by
Nos 87/1989
s. 10(e)(i)(ii),
61/2006
s. 49(1)(e).

S. 31A(6)
amended by
No. 87/1989
s. 10(f).

S. 31A(7)
amended by
Nos 87/1989
ss 7(b),
10(g) (as
amended by
No. 86/1990
s. 13(2)(b)),
23(b), 86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (9)
(a)–(c)),
61/2006
s. 49(1)(f).

(7) A person on whom a pollution abatement notice or a notice of amendment has been served under this section who contravenes a requirement specified in the notice shall be guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to an additional daily penalty of not more than 1200 penalty units for each day upon which the offence continues after conviction or after service by the Authority on that person of notice of contravention of this section.

S. 31A(8)
inserted by
No. 49/2000
s. 11(4).

(8) Any noise control notice or minor works noise control notice in force on the date section 11 of the **Environment Protection (Enforcement and Penalties) Act 2000** came into operation is deemed to be a pollution abatement notice issued under this section.

S. 31A(9)
inserted by
No. 49/2000
s. 11(4).

(9) Despite subsection (8), if a person contravenes a requirement specified in a pollution abatement notice that was issued as a minor works noise control notice, the person is only liable to the penalties that were specified by section 47A(6) immediately before section 11 of the **Environment Protection (Enforcement and Penalties) Act 2000** came into operation.

S. 31B
inserted by
No. 10092
s. 11(1).

31B Minor works pollution abatement notice

S. 31B(1)
amended by
Nos 87/1989
s. 28, 61/2006
s. 49(2)(a).

(1) Where the Authority—

S. 31B(1)(a)
substituted by
No. 20/1988
s. 11(a)(i).

(a) is satisfied that a situation described in section 31A(1) exists; and

- (b) estimates that the cost of compliance with all of the proposed requirements in the pollution abatement notice will not exceed \$50 000—

S. 31B(1)(b)
amended by
Nos 20/1988
s. 11(a)(ii),
49/2000 s. 17.

the Authority may if it is satisfied that urgent action is required in the circumstances serve a minor works pollution abatement notice on the occupier of the premises or on the person responsible for the process or activity carried on or proposed to be carried on, or on the person responsible for the use or proposed use of the premises.

- (2) A minor works pollution abatement notice may require the person on whom it is served to do any one or more of the things referred to in section 31A(2) and specified in the notice.
- (3) A requirement specified in a minor works pollution abatement notice may be expressed to be general or limited in operation as to particular times, places or circumstances.
- (4) A minor works pollution abatement notice may specify a period of time within which any requirement specified in the minor works pollution abatement notice is to be complied with.
- (5) The Authority may by notice of amendment in writing served on the person on whom a minor works pollution abatement notice has been served—
- (a) extend the period if any for compliance with a requirement specified in the minor works pollution abatement notice if the Authority is satisfied that the circumstances of the case justify an extension of that period; and
- (b) revoke or amend any requirement specified in the minor works pollution abatement notice.

S. 31B(2)
amended by
No. 61/2006
s. 49(2)(b).

S. 31B(5)
amended by
Nos 87/1989
s. 10(e)(i)(ii),
61/2006
s. 49(2)(c).

S. 31B(6)
amended by
Nos 87/1989
ss 7(b),
10(g) (as
amended by
No. 86/1990
s. 13(2)(b)),
23(c), 86/1990
s. 5(e)(f),
49/2000
s. 3(15)(Sch.
item (10)
(a) (b)),
61/2006
s. 49(2)(d).

- (6) A person on whom a minor works pollution abatement notice or a notice of amendment has been served under this section who contravenes a requirement specified in the notice shall be guilty of an offence against this Act and liable to a penalty of not more than 300 penalty units and in the case of a continuing offence to an additional daily penalty of 50 penalty units for each day upon which the offence continues after conviction or after service by the Authority on that person of notice of contravention of this section.

S. 31C
inserted by
No. 87/1989
s. 29.

31C Environment improvement plan

- (1) The Governor in Council may, on the recommendation of the Authority, declare by Order in Council published in the Government Gazette that this section applies to an industry specified in the Order in Council as from the date specified in the Order in Council.
- (2) The Authority will give an exemption in respect of any premises from the application of subsection (4) if the occupier of the premises has agreed to participate in an environment improvement plan which has been endorsed by the Authority.
- (3) If in the opinion of the Authority the occupier has breached the environment improvement plan entered into under subsection (2) the Authority may revoke the exemption given under subsection (2).
- (4) The Authority may amend the licence of any scheduled premises operating in an industry to which this section applies as follows—
- (a) to require the occupier of the premises to conduct a specified environmental audit using an environmental auditor;

S. 31C(4)
amended by
No. 61/2006
s. 22(2).

(b) to require the occupier of the premises to publish results of the environmental audit in the manner specified by the Authority and, at intervals specified by the Authority in the manner specified by the Authority, the results of any monitoring program required under this Act.

(5) A person must not make a false statement in any results published under subsection (4)(b).

Penalty: 2500 penalty units or imprisonment for 2 years or both.

(6) An environment improvement plan should include—

- (a) a requirement that any relevant State environment protection policy, waste management policy, regulations and licence conditions must be complied with; and
- (b) emission and waste production standards for the industry; and
- (c) requirements for the monitoring of compliance with the environment improvement plan; and
- (d) provision for the participation of the community in the evaluation of the performance in meeting objectives under the environment improvement plan; and
- (e) provision for the up-grading of plant and equipment to meet objectives under the environment improvement plan; and
- (f) provision for the assessment of new or emerging technology in the industry or in pollution control; and
- (g) provision for contingency or emergency plans.

**S. 31C(6)(a)
amended by
No. 37/2002
s. 11(n).**

S. 31C(7)
inserted by
No. 7/2001
s. 10.

- (7) An environment improvement plan must be consistent with any relevant neighbourhood environment improvement plan.

S. 31D
inserted by
No. 61/2006
s. 23.

31D Annual performance statement

- (1) A licence holder must submit a statement in the form approved by the Authority to the Authority.
- (2) A statement under this section must be submitted by the date specified in the licence under which the statement is required.
- (3) A statement under this section must—
- (a) include an analysis of performance against the provisions of the licence for the previous calendar year;
 - (b) be accompanied by any other information required under the licence;
 - (c) be signed by the licence holder or, with the approval of the Authority, a delegate of the licence holder.
- (4) A licence holder who fails to comply with subsection (1), (2) or (3) is guilty of an offence.
Penalty: 600 penalty units.
- (5) A licence holder must not in a statement under this section—
- (a) give false or misleading information to the Authority; or
 - (b) include information in the statement which is false or misleading; or
 - (c) conceal any relevant information or document from the Authority.

(6) A licence holder who contravenes subsection (5) is guilty of an indictable offence.

Penalty: 2400 penalty units or imprisonment for 2 years or both.

(7) Any information provided to the Authority in a statement submitted under subsection (1) is not admissible in evidence in any proceedings for an offence against this Act other than an offence against subsection (5).

(8) A statement submitted to the Authority under this section is a public document.

(9) This section does not limit the power of the Authority to impose conditions on a licence holder requiring other reports or information in respect of performance or compliance from the licence holder.

Part IV—Reviews by Tribunal

Pt 4 (Heading)
substituted by
Nos 10092
s. 12(1),
52/1998
s. 311(Sch. 1
item 27.2).

Pt 4 (ss 32–37)
amended by
Nos 8277
ss 6, 7, 8427
s. 12, 9098
ss 12
(1)–(3), 13,
9207 s. 6(1)(2)
(b)–(e), 9512
s. 2(1), 9571
s. 4(2)(3)
(b)–(e), 9988
s. 6,
substituted by
No. 10092
s. 12(1) (as
amended by
No. 10160
s. 8(1)).

S. 32
substituted by
No. 10092
s. 12(1) (as
amended by
No. 10160
s. 8(1)(a)(b)).

S. 32(1)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.3),
20/1988
s. 9(4)(a),
52/1998
s. 311(Sch. 1
item 27.3(a)),
37/2002
s. 41(1)(a).

S. 32(1)(c)
amended by
No. 87/1989
s. 10(f).

32 Jurisdiction of Tribunal

- (1) The Tribunal has jurisdiction to review decisions of the Authority, delegated agency or a litter authority with respect to—
- (a) works approvals;
 - (b) licences;
 - (ba) fees under this Act;
 - (c) abatement notices and notices of amendment under section 28B;

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| (d) pollution abatement notices and notices of amendment under section 31A; | S. 32(1)(d) amended by No. 87/1989 s. 10(f). |
| (e) a direction to a protection agency to submit a proposal to develop a neighbourhood environment improvement plan to the Authority for endorsement; | S. 32(1)(e) amended by No. 87/1989 s. 10(f), repealed by No. 49/2000 s. 11(6), new s. 32(1)(e) inserted by No. 7/2001 s. 11(1). |
| (ea) a direction under section 45Y(2) or (4); | S. 32(1)(ea) inserted by No. 37/2002 s. 41(1)(b). |
| (eb) litter abatement notices under section 45ZB; | S. 32(1)(eb) inserted by No. 37/2002 s. 41(1)(b), amended by No. 61/2006 s. 50. |
| (f) permits; | S. 32(1)(f) amended by Nos 10261 s. 17(1), 37/2002 s. 6(1)(a). |
| (fa) requirements made under section 49AF, 49AH or 49AL; | S. 32(1)(fa) inserted by No. 37/2002 s. 6(1)(b). |
| (g) the variation or discharge of a financial assurance under section 67B(7)— | S. 32(1)(g) Inserted by No. 20/1988 s. 9(4)(b). |

as provided in this Part.

S. 32(2)
amended by
No. 9/1987
s. 9(Sch. 3
item 5.3),
repealed by
No. 52/1998
s. 311(Sch. 1
item 27.3(b)).

S. 33
substituted by
No. 10092
s. 12(1) (as
amended by
No. 10160
s. 8(1)(a)).

S. 33(1)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.4),
52/1998
s. 311(Sch. 1
item 27.4
(a)(b)).

S. 33(2)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.4),
52/1998
s. 311(Sch. 1
item 27.4
(a)(b)).

S. 33(3)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.4),
52/1998
s. 311(Sch. 1
item 27.4
(a)(b)).

33 Reviews with respect to works approvals

(1) An applicant for a works approval whose interests are affected by the—

- (a) refusal of the Authority or a delegated agency to issue a works approval; or
- (b) failure of the Authority or a delegated agency to determine an application for a works approval within the period of time allowed under this Act—

may within 21 days after the refusal or the expiration of the period of time allowed apply to the Tribunal for review of that refusal or failure.

(2) An applicant for the transfer of a works approval whose interests are affected by the refusal of the Authority or a delegated agency to transfer the works approval may within 21 days after the refusal apply to the Tribunal for review of that refusal.

(3) An applicant for a works approval or the transfer of a works approval whose interests are affected by any condition to which the issue of the works approval or the transfer is subject may within 21 days after the works approval is issued or transferred apply to the Tribunal for review of that condition.

(3A) Subsection (3) does not apply to an applicant for a works approval or the transfer of a works approval if that works approval is—

S. 33(3A)
inserted by
No. 92/1990
s. 128(Sch. 1
item 8.6).

(a) issued—

(i) on an application which is jointly advertised under section 20AA with a notice of preparation of an amendment to a planning scheme under the **Planning and Environment Act 1987**; or

(ii) on an application that is so advertised and after the report of any panel appointed under that Act to consider submissions about a proposed amendment to a planning scheme; and

(b) substantially in accordance with the application.

(4) The holder of a works approval whose interests are affected by the amendment of the works approval under section 19C may within 21 days after notice of amendment has been served on the holder apply to the Tribunal for review of the amendment.

S. 33(4)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.4),
52/1998
s. 311(Sch. 1
item 27.4
(a)(b)).

33A Reviews with respect to licences

S. 33A
inserted by
No. 10092
s. 12(1) (as
amended by
No. 10160
s. 8(1)(a)).

(1) An applicant for a licence whose interests are affected by the—

(a) refusal of the Authority or a delegated agency to issue a licence; or

S. 33A(1)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.5),
52/1998
s. 311(Sch. 1
item 27.5
(a)(i)(ii)).

(b) failure of the Authority or a delegated agency to determine an application for a licence within the period allowed under this Act—

may within 21 days after the refusal or the expiration of the period of time allowed apply to the Tribunal for review of that refusal or failure.

S. 33A(2)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.5),
52/1998
s. 311(Sch. 1
item 27.5
(a)(i)(ii)).

(2) An applicant for the amendment of a licence under section 20A whose interests are affected by the—

(a) refusal of the Authority or a delegated agency to amend the licence; or

(b) failure of the Authority or a delegated agency to determine the application for the amendment of the licence within the period allowed under this Act—

may within 21 days after the refusal or the expiration of the period of time allowed apply to the Tribunal for review of that refusal or failure.

S. 33A(3)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.5),
52/1998
s. 311(Sch. 1
item 27.5
(a)(i)(ii)).

(3) An applicant for the transfer of a licence whose interests are affected by the refusal of the Authority or a delegated agency to transfer the licence may within 21 days after such refusal apply to the Tribunal for review of that refusal.

S. 33A(4)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.5),
52/1998
s. 311(Sch. 1
item 27.5
(a)(i)(ii)).

(4) The holder of a licence whose interests are affected by—

S. 33A(4)(a)
amended by
No. 61/2006
s. 25(1).

(a) the revocation or suspension of the licence or part of a licence as it relates to a particular scheduled premises by a notice served under section 20(9); or

- (b) the amendment of the licence or part of a licence as it relates to a particular scheduled premises by a notice served under section 20(9)—
- may within 21 days after the service of the notice apply to the Tribunal for review of that revocation, suspension or amendment.
- (5) An applicant for a works approval, the issue of a licence, the amendment of a licence or the transfer of a licence whose interests are affected by a requirement under section 22(1)(b) to bear the cost of a course of study may within 21 days of being served with the notice containing the requirement apply to the Tribunal for review of that requirement.
- (6) An applicant for a licence, the amendment of a licence or the transfer of a licence whose interests are affected by any condition subject to which the licence is issued, amended or transferred may within 21 days after the licence is issued, amended or transferred apply to the Tribunal for review of that condition, limitation or restriction.
- (7) A person whose application for a licence is refused or whose licence is suspended or revoked shall pending the determination of an application for review made under this Part be deemed to be unlicensed.
- (7A) In the case of a suspension, subsection (7) has effect in relation to a licence amalgamated under section 20(11A) to the extent of the suspension.
- (8) If an application for review of an amendment of a licence is made under subsection (4)(b) the amendment of the licence is suspended until the application is withdrawn or the review is determined.

S. 33A(4)(b)
amended by
No. 61/2006
s. 25(1).

S. 33A(5)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.5),
52/1998
s. 311(Sch. 1
item 27.5
(a)(i)(ii)).

S. 33A(6)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.5),
87/1989
s. 14(b),
52/1998
s. 311(Sch. 1
item 27.5
(a)(i)(ii)).

S. 33A(7)
amended by
No. 52/1998
s. 311(Sch. 1
item 27.5(b)).

S. 33A(7A)
inserted by
No. 61/2006
s. 25(2).

S. 33A(8)
substituted by
No. 52/1998
s. 311(Sch. 1
item 27.6).

33B Applications for review by third parties

S. 33B
inserted by
No. 10092
s. 12(1) (as
amended by
No. 10160
s. 8(1)(a)(c)).

S. 33B(1)
substituted by
No. 52/1998
s. 311(Sch. 1
item 27.7).

- (1) If the Authority or a delegated agency—
- (a) issues a works approval; or
 - (b) issues a licence on an application to which section 20(8) applies; or
 - (c) amends a licence on an application to which section 20A(6) applies; or
 - (d) removes the suspension of a licence—
- a person whose interests are affected by the decision (other than the applicant or licence holder) may apply to the Tribunal, within 21 days after the decision is made, for review of the decision.

S. 33B(1A)
inserted by
No. 92/1990
s. 128(Sch. 1
item 8.7).

- (1A) Subsection (1) does not apply to the issue of a works approval if that works approval is—
- (a) issued—
 - (i) on an application which is jointly advertised under section 20AA with a notice of preparation of an amendment to a planning scheme under the **Planning and Environment Act 1987**; or
 - (ii) on an application that is so advertised and after the report of any panel appointed under that Act to consider submissions about a proposed amendment to a planning scheme; and
 - (b) substantially in accordance with the application.

(1B) Subsection (1) does not apply to the issue of a works approval if that works approval is issued—

S. 33B(1B)
inserted by
No. 20/1994
s. 14.

- (a) on an application which is jointly advertised under section 20AA with a notice relating to the same proposal under the **Environment Effects Act 1978**; and
- (b) substantially in accordance with the assessment of the environment effects statement by the Minister administering the **Environment Effects Act 1978**.

(2) An application for review under subsection (1)(a) is to be based on either or both of the following grounds—

S. 33B(2)
amended by
No. 10261
s. 17(2),
substituted by
No. 86/1990
s. 9,
amended by
No. 52/1998
s. 311(Sch. 1
item 27.8(a)),
substituted by
No. 61/2006
s. 26(1).

- (a) that if the works are completed in accordance with the works approval, the use of the works will result in—
 - (i) a discharge, emission or deposit of waste to the environment; or
 - (ii) the reprocessing, treatment, storage, containment, disposal or handling of waste; or
 - (iii) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment—

which will unreasonably and adversely affect the interests, whether wholly or partly of that person;

- (b) that if the works are completed in accordance with the works approval, the use of the works will result in—
 - (i) a discharge, emission or deposit of waste to the environment; or

- (ii) the reprocessing, treatment, storage, containment, disposal or handling of waste; or
- (iii) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment—

in the area which will be inconsistent with any relevant Order declared under section 16, 16A or 17A for the area, or if no relevant Orders have been declared under any of those sections for that area, would cause pollution or an environmental hazard.

S. 33B(2A)
inserted by
No. 10261
s. 17(3),
substituted by
No. 86/1990
s. 9,
amended by
Nos 52/1998
s. 311(Sch. 1
item 27.8(a)),
37/2002
s. 11(n),
substituted by
No. 61/2006
s. 26(1).

(2A) An application for review under subsection (1)(b), (1)(c) or (1)(d) is to be based on either or both of the following grounds as may be relevant to the issue of the licence—

- (a) that the provisions of the licence will result in—
 - (i) a discharge, emission or deposit of waste to the environment; or
 - (ii) the reprocessing, treatment, storage, containment, disposal or handling of waste; or
 - (iii) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment—

which will unreasonably and adversely affect the interests, whether wholly or partly of that person;

- (b) that the provisions of the licence will result in—
- (i) a discharge, emission or deposit of waste to the environment; or
 - (ii) the reprocessing, treatment, storage, containment, disposal or handling of waste; or
 - (iii) the reprocessing, treatment, storage, containment, disposal or handling of substances which are a danger or a potential danger to the quality of the environment or any segment of the environment—

in the area which will be inconsistent with any relevant Order declared under section 16, 16A or 17A for the area, or if no relevant Orders have been declared under any of those sections for that area, would cause pollution or an environmental hazard.

* * * * *

S. 33B(2B) inserted by No. 86/1990 s. 9, amended by No. 52/1998 s. 311(Sch. 1 item 27.8(a)), repealed by No. 61/2006 s. 26(1).

* * * * *

S. 33B(2C) inserted by No. 86/1990 s. 9, amended by Nos 52/1998 s. 311(Sch. 1 item 27.8(a)), 37/2002 s. 11(n), repealed by No. 61/2006 s. 26(1).

S. 33B(3)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.6),
52/1998
s. 311(Sch. 1
item 27.8(b)).

- (3) This section does not apply to anything done by the Authority or a delegated agency to give effect to an order of the Tribunal under section 37.

S. 33B(4)
substituted by
No. 52/1998
s. 311(Sch. 1
item 27.9).

- (4) If an application for review of a decision is made under this section the decision is suspended until the application is withdrawn or the review is determined.

S. 33B(5)
inserted by
No. 61/2006
s. 26(2).

- (5) This section as in force before the commencement of section 26 of the **Environment Protection (Amendment) Act 2006** continues to apply in respect of an application for a review in respect of a works approval or licence which is the subject of a decision specified in subsection (1) made before that commencement.

S. 33B(6)
inserted by
No. 61/2006
s. 26(2).

- (6) This section as in force after the commencement of section 26 of the **Environment Protection (Amendment) Act 2006** applies in respect of an application for a review in respect of a works approval or licence which is the subject of a decision specified in subsection (1) made after that commencement.

S. 33C
inserted by
No. 10092
s. 12(1) (as
amended by
No. 10160
s. 8(1)(a)),
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.7),
87/1989
s. 14(c),
substituted by
No. 52/1998
s. 311(Sch. 1
item 27.10).

33C What matters can Tribunal consider in reviews of conditions of works approvals and licences?

- (1) This section applies if—
- (a) the Authority or a delegated agency has amended a works approval or licence; and
 - (b) a person has applied to the Tribunal for review of any of the conditions to which the works approval or licence is subject.

- (2) In a review referred to in subsection (1)(b), the Tribunal may only consider, and make orders in respect of, those matters directly related or consequential to the amendment of the works approval or licence.

34 Reviews in respect of section 28B notices

- (1) A person whose interests are affected by a requirement specified in an abatement notice or notice of amendment of an abatement notice served on that person under section 28B may within 21 days after the service of the abatement notice or notice of amendment apply to the Tribunal for review of the abatement notice or notice of amendment.

- (2) In determining a review under this section, the Tribunal may only take into account the present capacity or resources of the sewerage authority to treat the waste in respect of which the abatement notice or notice of amendment relates to the standard required to comply with the conditions subject to which the licence of that sewerage authority is issued.

35 Reviews in respect of notices under section 31A

- (1) A person whose interests are affected by a requirement specified in a pollution abatement notice or a notice of amendment served on that person under section 31A may within 21 days after the service of the pollution abatement notice or notice of amendment apply to the Tribunal for

S. 34 substituted by No. 10092 s. 12(1), amended by No. 87/1989 s. 10(f).

S. 34(1) amended by Nos 9/1987 s. 9(Sch. 3 item 5.8), 52/1998 s. 311(Sch. 1 item 27.11 (a)(i)(ii)).

S. 34(2) amended by Nos 9/1987 s. 9(Sch. 3 item 5.8), 52/1998 s. 311(Sch. 1 item 27.11(b)).

S. 35 substituted by No. 10092 s. 12(1), amended by No. 87/1989 s. 10(f).

S. 35(1) amended by Nos 9/1987 s. 9(Sch. 3 item 5.9), 52/1998 s. 311(Sch. 1 item 27.12 (a)(b)).

review of the pollution abatement notice or notice of amendment.

S. 35(2)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.9),
52/1998
s. 311(Sch. 1
item 27.12
(a)(b)),
repealed by
No. 49/2000
s. 11(6).

* * * * *

S. 35A
inserted by
No. 7/2001
s. 11(2).

35A Reviews in respect of directions under section 19AG

A person whose interests are affected by a decision of the Authority under section 19AG may, within 21 days of the decision, apply to the Tribunal for review of the decision.

S. 36
substituted by
No. 10092
s. 12(1) (as
amended by
No. 10160
s. 8(1)(d)),
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.10),
87/1989
s. 10(f)(h),
substituted by
No. 52/1998
s. 311(Sch. 1
item 27.13),
amended by
No. 49/2000
s. 11(7)(b).

36 Certain notices do not take effect pending review

If an application is made for review of a notice or notice of amendment served under section 28B or 31A, the notice or notice of amendment does not take effect until the end of the period of 30 days after the day on which the Tribunal confirms or amends it.

S. 36AA
inserted by
No. 37/2002
s. 42.

36AA Reviews in respect of section 45Y directions and litter abatement notices

- (1) A person who is served with—
- (a) a direction under section 45Y(2) or (4); or

(b) a litter abatement notice under section 45ZA—

may apply to the Tribunal for a review of any provision of the direction or notice that the person believes is oppressive, unjust or unreasonable.

- (2) The person must lodge the application within 28 days after receiving notice of the provision.
- (3) If a person lodges an application, the person need not comply with the direction or notice until the application is withdrawn or dismissed, or the direction or notice is confirmed or varied by the Tribunal.

36A Reviews in respect of permits

(1) An applicant for a permit whose interests are affected by—

(a) the refusal of the Authority or a delegated agency to issue a permit; or

(b) any terms or conditions subject to which the permit is issued; or

(c) in the case of a permit under Part IXB—

(i) the refusal of a municipal council to issue a permit; or

S. 36A
inserted by
No. 10092
s. 12(1) (as
amended by
No. 10160
s. 8(1)(a)).

S. 36A(1)
amended by
Nos 10261
s. 17(4),
9/1987
s. 9(Sch. 3
item 5.11),
52/1998
s. 311(Sch. 1
item 27.14
(a)(b)).

S. 36A(1)(a)
amended by
No. 10261
s. 17(4).

S. 36A(1)(b)
amended by
No. 10261
s. 17(4).

S. 36A(1)(c)
inserted by
No. 48/1988
s. 40(2)(b) (as
amended by
No. 87/1989
s. 65(b)).

(ii) any conditions subject to which the permit is issued—

may within 21 days after the refusal or issue apply to the Tribunal for review of that refusal or the terms or conditions.

S. 36A(2)
amended by
Nos 10261
s. 17(4),
9/1987
s. 9(Sch. 3
item 5.11),
52/1998
s. 311(Sch. 1
item 27.14
(a)(b)).

(2) An applicant for the renewal of a permit whose interests are affected by the refusal of the Authority or a delegated agency to renew the permit may within 21 days after the refusal apply to the Tribunal for review of that refusal.

S. 36B
inserted by
No. 10092
s. 12(1) (as
amended by
No. 10160
s. 8(1)(e)).

36B Reviews of fees

S. 36B(1)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.12),
52/1998
s. 311(Sch. 1
item 27.15(a)).

(1) A person who is liable to pay a fee under this Act may within 21 days of being required to pay that fee apply to the Tribunal for review of the fee on the ground that the fee has been incorrectly calculated.

S. 36B(2)
repealed by
No. 52/1998
s. 311(Sch. 1
item 27.15(b)).

* * * * *

S. 36BA
inserted by
No. 37/2002
s. 7.

36BA Reviews in respect of section 49AF, 49AH or 49AL requirements

A person who is served with a notice imposing a requirement on the person under section 49AF, 49AH or 49AL may, within 21 days after receiving the notice, apply to the Tribunal for a review of the decision.

36C Reviews in respect of financial assurances under section 67B(7)

A person whose interests are affected by a decision of the Authority under section 67B(7) may, within 21 days of the decision, apply to the Tribunal for review of the decision.

S. 36C
inserted by
No. 20/1988
s. 9(5),
substituted by
No. 52/1998
s. 311(Sch. 1
item 27.16).

36D Application for declaration

- (1) A person may apply to the Victorian Civil and Administrative Tribunal for a declaration concerning any matter which may be the subject of an application to that Tribunal under this Act.
- (2) On an application under subsection (1) the Tribunal may make any declaration it thinks appropriate in the circumstances.
- (3) The Tribunal's power to make a declaration under this section is exercisable only by a presidential member of the Tribunal.

S. 36D
inserted by
No. 52/1998
s. 311(Sch. 1
item 27.16).

36E Parties not restricted to grounds previously notified

A party in a proceeding for review under this Act is not restricted at the hearing of the proceeding to any grounds previously notified to the other parties (whether in the course of or before the proceeding) or the Tribunal.

S. 36E
inserted by
No. 52/1998
s. 311(Sch. 1
item 27.16).

37 Powers of Tribunal

On a review under this Part the Tribunal, by order, may—

- (a) direct that a works approval shall or shall not be issued or transferred or be subject to a specified condition;

S. 37
substituted by
No. 10092
s. 12(1) (as
amended by
No. 10160
s. 8(1)(f)(g)),
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.13),
20/1988
s. 9(6)(a),
52/1998
s. 311(Sch. 1
item 27.17(a)).

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S. 37(b)
amended by
No. 87/1989
s. 14(b).

(b) direct that a licence shall or shall not be issued, transferred, revoked or suspended or be amended under section 20A or be subject to a specified condition;

S. 37(ba)
inserted by
No. 7/2001
s. 11(3).

(ba) in the case of a direction under section 19AG, confirm, amend or revoke the direction;

S. 37(c)
amended by
No. 87/1989
s. 10(i).

(c) subject to section 33C, confirm, amend or revoke any amendment of a works approval under section 19C or of a licence under section 20(9);

S. 37(d)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.13),
87/1989
s. 10(j),
52/1998
s. 311(Sch. 1
item 27.17(b)).

(d) in the case of an appeal under section 34(1), confirm, revoke or amend the notice as the Tribunal thinks fit;

S. 37(e)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.13),
87/1989
s. 10(j),
52/1998
s. 311(Sch. 1
item 27.17(b)).

(e) in the case of an appeal under section 35(1), confirm, revoke or amend the notice as the Tribunal thinks fit;

S. 37(f)
amended by
Nos 9/1987
s. 9(Sch. 3
item 5.13),
87/1989
s. 10(j),
52/1998
s. 311(Sch. 1
item 27.17(b)),
substituted by
No. 37/2002
s. 41(2).

(f) in the case of an application under section 36AA—
(i) if the Tribunal considers the provision to be oppressive, unjust or unreasonable, revoke or amend the provision as the Tribunal considers appropriate; or
(ii) in any other case, confirm the provision;

- | | |
|--|---|
| (g) direct that a permit shall or shall not be issued or renewed; | S. 37(g)
amended by
No. 10261
s. 17(5). |
| (h) direct that a permit shall or shall not be issued subject to any specified terms or conditions; | S. 37(h)
amended by
No. 10261
s. 17(5). |
| (i) in the case of an appeal under section 36B, confirm the fee or direct that the Authority re-calculate the fee and make any refund that is appropriate; | S. 37(i)
amended by
No. 37/2002
s. 6(2)(a). |
| (ia) in the case of an application under section 36BA, confirm, revoke or amend the notice as the Tribunal considers appropriate; | S. 37(ia)
inserted by
No. 37/2002
s. 6(2)(b). |
| (j) in the case of an appeal under section 36C, amend or discharge a financial assurance. | S. 37(j)
inserted by
No. 20/1988
s. 9(6)(b),
amended by
No. 87/1989
s. 10(k). |
|
37A Matters Tribunal must take into account | |
| In determining an application for review or a declaration under this Part the Tribunal must— | S. 37A
inserted by
No. 9/1987
s. 9(Sch. 3
item 5.14),
substituted by
No. 52/1998
s. 311(Sch. 1
item 27.18). |
| (a) take into account any relevant planning scheme; and | |
| (b) where appropriate, have regard to any planning scheme or amendment adopted by a planning authority under the Planning and Environment Act 1987 but not, as at the date the application is determined, approved by the Minister or the planning authority; and | S. 37A(b)
amended by
No. 81/2004
s. 47(2). |
| (c) take account of, and give effect to, any relevant State environment protection policy or waste management policy; and | S. 37A(c)
substituted by
No. 37/2002
s. 11(p). |

- (d) where appropriate, have regard to any agreement made under section 173 of the **Planning and Environment Act 1987** affecting land the subject of the application.

Part V—Clean water

38 Discharges etc. to comply with policy

The discharge or deposit of wastes into waters of the State of Victoria shall at all times be in accordance with declared State environment protection policy or waste management policy specifying acceptable conditions for the discharge or deposit of wastes into waters in the environment and shall comply with any standards prescribed therefor under this Act.

S. 38
amended by
No. 37/2002
s. 11(q).

39 Pollution of waters

- (1) A person shall not pollute any waters so that the condition of the waters is so changed as to make or be reasonably expected to make those waters—
- (a) noxious or poisonous;
 - (b) harmful or potentially harmful to the health, welfare, safety or property of human beings;
 - (c) poisonous, harmful or potentially harmful to animals, birds, wildlife, fish or other aquatic life;
 - (d) poisonous, harmful or potentially harmful to plants or other vegetation; or
 - (e) detrimental to any beneficial use made of those waters.

S. 39
amended by
Nos 8277 s. 8,
9758 s. 5(a)(b),
substituted by
No. 10092
s. 13.

S. 39(1)
amended by
No. 20/1988
s. 7(b).

Environment Protection Act 1970
No. 8056 of 1970
Part V—Clean water

S. 39(2)
amended by
No. 20/1988
s. 7(c).

- (2) Without in any way limiting the generality of subsection (1) a person shall be deemed to have polluted waters in contravention of subsection (1) if—
- (a) that person causes or permits to be placed in or on any waters or in a place where it may gain access to any waters any matter whether solid, liquid or gaseous which—
 - (i) is prohibited by or under this Act; or
 - (ii) does not comply with any standard prescribed for that matter; or
 - (b) that person causes or permits the temperature of receiving waters to be raised or lowered by more than the prescribed limits.

S. 39(3)
amended by
No. 7/2001
s. 19.

- (3) A person shall not cause or permit waste to be placed or left in any position whereby it could reasonably be expected to gain access to any waters in circumstances where if access was gained the waste would be likely to result in those waters being polluted.

S. 39(4)
amended by
No. 81/1989
s. 3(Sch.
item 12.4).

- (4) A person shall not cause or permit waste to be discharged or deposited onto the dry bed of any waterway in circumstances where if the waterway had contained waters the discharge or deposit would be likely to result in those waters being polluted.

S. 39(5)
amended by
Nos 86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (11)
(a)–(c)).

- (5) A person who contravenes any of the provisions of this section shall be guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority of notice of contravention of this section.

Part VI—Clean air

40 Discharges etc. to comply with policy

The discharge or emission of wastes into the atmosphere shall at all times be in accordance with declared State environment protection policy or waste management policy specifying acceptable conditions for discharging or emitting wastes into the atmosphere and shall comply with any standards prescribed therefor under this Act.

S. 40
amended by
No. 37/2002
s. 11(q).

41 Pollution of atmosphere

(1) A person shall not pollute the atmosphere so that the condition of the atmosphere is so changed as to make or be reasonably expected to make the atmosphere—

S. 41
amended by
No. 9803
s. 3(a)(b),
substituted by
No. 10092
s. 14.

(a) noxious or poisonous or offensive to the senses of human beings;

S. 41(1)
amended by
No. 20/1988
s. 7(d).

(b) harmful or potentially harmful to the health, welfare, safety or property of human beings;

(c) poisonous, harmful or potentially harmful to animals, birds or wildlife;

(d) poisonous, harmful or potentially harmful to plants or other vegetation; or

(e) detrimental to any beneficial use made of the atmosphere.

S. 41(1)(a)
amended by
No. 10261
s. 18(1).

Environment Protection Act 1970
No. 8056 of 1970
Part VI—Clean air

S. 41(2)
amended by
Nos 22/1987
s. 22(d),
20/1988
s. 7(e).

- (2) Without in any way limiting the generality of subsection (1) a person shall be deemed to have polluted the atmosphere in contravention of subsection (1) if—
- (a) that person causes or permits to be placed in or so that it may be released into the atmosphere any matter whether solid, liquid or gaseous which—
 - (i) is prohibited by or under this Act; or
 - (ii) does not comply with any standard prescribed for that matter; or
 - (b) that person causes or permits the discharge or emission of any matter or substance into the atmosphere in contravention of this Act;
or
 - (c) that person uses any chemical substance or fuel the use of which is prohibited by the regulations; or
 - (d) that person contravenes any regulation dealing with the use of any ozone-depleting substance or the manufacture, assembly, installation, operation, maintenance, removal, sale or disposal of goods, equipment, machinery, or plant containing or using an ozone-depleting substance.

S. 41(2)(b)
repealed by
No. 10261
s. 18(2),
new s. 41(2)(b)
inserted by
No. 30/1989
s. 4(a).

S. 41(2)(d)
inserted by
No. 30/1989
s. 4(b).

S. 41A
inserted by
No. 9571
s. 4(1),
amended by
No. 9758 s. 6,
repealed by
No. 10092
s. 11(2) (as
amended by
No. 10160
s. 7(2)).

* * * * *

42 Particular offence

(1) A person who—

(a) constructs, manufactures, assembles or sells any new vehicle capable of emitting into the atmosphere any matter that does not comply with any prescribed emission standard or prescribed standard of maximum permissible concentration; or

(b) sells a vehicle other than a new vehicle capable of emitting into the atmosphere any matter that does not comply with any prescribed—

(i) emission standard; or

(ii) standard of maximum permissible concentration—

for visible emissions or for the emission of carbon monoxide when the engine of the vehicle is idling—

shall be guilty of an offence.

(2) A person who constructs, manufactures, assembles, sells, installs or offers to install any machinery, facility, vehicle or ship required by or under this Act to be fitted or equipped with any device or equipment so as to prevent or minimize pollution of the atmosphere without the machinery, facility, vehicle or ship being so fitted or equipped shall be guilty of an offence.

(2A) A person who constructs, manufactures, assembles or sells a vehicle which—

(a) is not constructed; or

(b) is not labelled—

in the prescribed manner shall be guilty of an offence.

S. 42
substituted by
No. 9803 s. 4.

S. 42(1)(a)
amended by
No. 87/1989
s. 30(a).

S. 42(1)(b)
amended by
No. 87/1989
s. 30(b).

S. 42(2)
amended by
Nos 87/1989
s. 30(c),
49/2000
s. 29(a).

S. 42(2A)
inserted by
No. 10037 s. 4,
amended by
No. 87/1989
s. 30(a).

S. 42(2B)
inserted by
No. 10037 s. 4,
amended by
No. 87/1989
s. 30(b).

(2B) A person who sells a vehicle which has not been kept, maintained and adjusted in the prescribed manner shall be guilty of an offence.

S. 42(3)
amended by
No. 87/1989
s. 30(d).

(3) A person who in any locality in which the use of any chemical substance or fuel is prohibited by or under this Act sells the chemical substance or fuel shall be guilty of an offence.

S. 42A
inserted by
No. 9760 s. 2.

42A Prohibition of sale or offering for sale of petrol containing excess lead

S. 42A(1)
substituted by
No. 87/1989
s. 31.

(1) In this section and section 42B, *petrol* includes any liquid fuel or mixtures of fuels of a kind used in internal combustion spark ignition engines.

(2) For the purposes of this section the mass of lead contained in a specified volume of petrol may be determined by reference to the mass of lead present as a constituent of a compound contained in that volume.

S. 42A(3)
amended by
Nos 10160
s. 4(n),
87/1989
s. 30(b),
substituted by
No. 20/1994
s. 15(1).

(3) Subject to subsection (4), a person who—
(a) on or after the commencement of section 15 of the **Environment Protection (General Amendment) Act 1994** but before 1 January 1995, sells any petrol which—
(i) would, if tested at a temperature of 15° Celsius, contain lead in excess of 0.25 grams per litre; and
(ii) does not comply with any requirements prescribed under section 71(1)(ec); or

- (b) on or after 1 January 1995, sells any petrol which—
- (i) would, if tested at a temperature of 15° Celsius, contain lead in excess of 0.20 grams per litre or such lower amount as is prescribed under section 71(1)(ed); and
 - (ii) does not comply with any requirements prescribed under section 71(1)(ec)—
- is guilty of an offence.
- (4) Subsection (3) shall not apply to or in relation to any petrol—
- (a) sold for use in an aircraft;
 - (b) sold for use in a vehicle participating in a racing event or contest at a place that is not a highway; or
 - (c) sold for use in a vehicle being tested at a place that is not a highway.
- (5) A person who purchases petrol for resale may demand from the vendor a warranty in writing that the petrol so purchased complies with the relevant requirements that apply under subsection (3).
- (6) A vendor who refuses to furnish a purchaser with such a warranty as is mentioned in subsection (5) shall be guilty of an offence.
- (7) If the accused in any proceedings for an offence under subsection (3) proves to the satisfaction of the court—
- (a) that he purchased the petrol in question with such a warranty as is mentioned in subsection (5); and
- S. 42A(4) amended by No. 10160 s. 4(o).**
- S. 42A(5) substituted by No. 20/1994 s. 15(2).**
- S. 42A(7) amended by No. 68/2009 s. 97(Sch. item 50.6).**

S. 42A(7)(b)
amended by
No. 87/1989
s. 30(e).

(b) that he sold the petrol in question in the same state as when he purchased it—

he shall be discharged from the prosecution.

S. 42A(8)
amended by
Nos 87/1989
s. 30(e),
68/2009
s. 97(Sch.
item 50.7).

(8) Where an accused has been discharged from a prosecution pursuant to subsection (7) then a prosecution may within 90 days after the discharge of the accused be instituted against the person from whom the accused purchased the petrol in question and for the purposes of that prosecution such person shall be deemed to have sold the petrol in question.

S. 42A(9)
amended by
Nos 57/1989
s. 3(Sch. item
64.2), 68/2009
s. 97(Sch.
item 50.8).

(9) A warranty shall not be available as a defence to a prosecution for an offence under subsection (3) unless the accused has within seven days after service of the summons to answer to the charge sent to the informant a copy of the warranty together with a written notice stating that he intends to rely on the warranty and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person.

(10) The person by whom a warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence and the court may if it thinks fit adjourn the hearing to enable him to do so.

S. 42A(11)
amended by
No. 68/2009
s. 97(Sch.
item 50.8).

(11) A warranty given by a person resident out of Victoria shall not be available as a defence to a prosecution for an offence under subsection (3) unless the accused proves that he had taken reasonable steps to ascertain and did in fact believe in the accuracy of the statement contained in the warranty.

- (12) A person who—
- (a) wilfully applies to any petrol in any proceedings for an offence under subsection (3) a warranty given in relation to any other petrol; or
 - (b) gives a false warranty in writing to a purchaser in respect of petrol sold by him as principal or agent—

shall be guilty of an offence.

- (13) In case of emergency (of which the Governor in Council shall be the sole judge) the Governor in Council may by Order published in the Government Gazette exempt any person from compliance with the provisions of subsection (3) and may by like Order revoke or vary such an exemption.

- (14) An Order under subsection (13) may be made subject to such conditions (if any) as the Governor in Council determines and specifies in the Order.

S. 42A(14)
amended by
No. 87/1989
s. 14(a).

- (15) No Order under subsection (13) shall be in force for more than one month but nothing in this subsection shall prejudice the making of another such Order.

42B Unleaded petrol

S. 42B
inserted by
No. 10037 s. 5.

- (1) In this section—

petrol has the same meaning as it has in section 42A;

petrol supplier means a person who, in the course of a business, supplies petrol, but does not include a retail petrol seller;

retail petrol seller means a person who sells petrol by retail;

unleaded petrol means petrol which does not contain more than the prescribed amounts of lead, sulphur and phosphorus per litre and which complies with the prescribed specifications for motor octane number and research octane number.

S. 42B(2)
amended by
No. 87/1989
s. 32(a).

- (2) Subject to subsections (3) and (7), on and after 1 July 1985 a retail petrol seller who fails or refuses to comply with a request from a person to be sold unleaded petrol with a research octane number of less than 93·0 shall be guilty of an offence.
- (3) Subsection (2) does not apply in respect of a retail petrol seller where there is in force an exemption granted under subsection (4) by the Authority in respect of that seller.
- (4) The Authority, on application in the form approved by the Authority, may grant to a retail petrol seller an exemption from subsection (2) in respect of a site if it is satisfied that—

S. 42B(4)
amended by
No. 87/1989
s. 32(b).

- (a) at the site—
- (i) there is not more than one underground tank available for use for storage of petrol; or
 - (ii) there is not more than one petrol pump designed for dispensing petrol and, if there is such a pump, that pump is not designed for dispensing petrol through more than one filling nozzle; and
- (b) either—
- (i) the amount of petrol sold from the site during the preceding calendar year was less than 240 kilolitres; or

- (ii) where a person did not sell petrol from the site during the whole of the preceding calendar year, the person reasonably expects that the amount of petrol sold from the site during the current calendar year will not exceed 240 kilolitres.
- (5) For the purposes of subsection (4) a tank is not available for storage of petrol if it is ordinarily used for storage of substances other than petrol.
- (6) The Authority may at any time, by notice in writing to a retail petrol seller, revoke that retail petrol seller's exemption under subsection (4). **S. 42B(6) amended by No. 87/1989 s. 32(c).**
- (7) If in proceedings for an offence under subsection (2) it is proved to the satisfaction of the court— **S. 42B(7) amended by No. 68/2009 s. 97(Sch. item 50.9).**
- (a) that the accused was unable to obtain supplies of unleaded petrol because of— **S. 42B(7)(a) amended by No. 68/2009 s. 97(Sch. item 50.9).**
- (i) an industrial dispute; or
- (ii) the breakdown of a petrol delivery vehicle;
- (b) that not less than 48 hours before the alleged offence the accused had ordered the supply of unleaded petrol and— **S. 42B(7)(b) amended by No. 68/2009 s. 97(Sch. item 50.9).**
- (i) at the time of the order the accused had a reasonable expectation that delivery would be made; **S. 42B(7)(b)(i) amended by No. 68/2009 s. 97(Sch. item 50.9).**
- (ii) if the petrol ordered had been supplied within 48 hours of the making of the order the accused would, in the usual course of events, have been able to comply with the request; and **S. 42B(7)(b)(ii) amended by No. 68/2009 s. 97(Sch. item 50.9).**
- (iii) delivery was not made;

S. 42B(7)(c)
amended by
No. 68/2009
s. 97(Sch.
item 50.9).

(c) that a malfunction in the petrol pump or petrol storage system prevented the accused from complying with the request, and that the accused had taken all reasonable steps to ensure the malfunction was repaired;

S. 42B(7)(d)
amended by
No. 68/2009
s. 97(Sch.
item 50.9).

(d) that the accused had taken all reasonable steps to comply with the request, but was prevented, by circumstances over which the accused had no control, from doing so; or

S. 42B(7)(e)
amended by
No. 68/2009
s. 97(Sch.
item 50.9).

(e) that due to—

(i) the nature of the request; or

(ii) the nature, character or actions of the person making the request—

it was reasonable in all the circumstances for the accused to refuse or fail to comply with the request—

the accused shall be discharged from the prosecution.

- (8) Subject to subsection (10), on and after 1 July 1985 a petrol supplier who fails or refuses to comply with a request from another person to be supplied with unleaded petrol shall be guilty of an offence.
- (9) It is sufficient compliance with a request referred to in subsection (8) if a petrol supplier arranges for the supply, by another person, of unleaded petrol in accordance with the request.

- (10) If in proceedings for an offence under subsection (8) it is proved to the satisfaction of the court—
- S. 42B(10) amended by No. 68/2009 s. 97(Sch. item 50.9).
- (a) that the accused had taken all reasonable steps to comply with the request, but was prevented, by circumstances over which the accused had no control, from doing so; or
- S. 42B(10)(a) amended by No. 68/2009 s. 97(Sch. item 50.9).
- (b) that due to—
- (i) the nature of the request; or
- (ii) the nature, character or actions of the person making the request—
- it was reasonable in all the circumstances for the accused to refuse or fail to comply with the request—
- the accused shall be discharged from the prosecution.
- (11) Subject to subsection (14), a person who sells as unleaded petrol, any substance which is not unleaded petrol shall be guilty of an offence.
- S. 42B(11) amended by No. 87/1989 s. 30(f).
- (12) A person who purchases for resale a substance which the vendor represents to be unleaded petrol may request from the vendor a warranty in writing that the substance is unleaded petrol.
- (13) A vendor who fails or refuses to comply with a request under subsection (12) shall be guilty of an offence.
- (14) If in proceedings for an offence under subsection (11) it is proved to the satisfaction of the court—
- S. 42B(14) amended by No. 68/2009 s. 97(Sch. item 50.9).
- (a) that the accused purchased the substance with a warranty from the vendor that the substance was unleaded petrol; and
- S. 42B(14)(a) amended by No. 68/2009 s. 97(Sch. item 50.9).

S. 42B(14)(b)
amended by
No. 68/2009
s. 97(Sch.
item 50.9).

(b) that at the time of the alleged offence the substance was in the same state as when the accused purchased it—

the accused shall be discharged from the prosecution.

- (15) The provisions of subsections (8) to (15) of section 42A apply, with any necessary modifications, in relation to subsection (11) of this section.

S. 43
amended by
Nos 9758
s. 5(a)(b), 9803
s. 5(2)(b),
10092
s. 29(3)(a),
87/1989
s. 7(a),
86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (12)
(a)–(c),
68/2009
s. 97(Sch.
item 50.10).

43 Penalty

Any person who contravenes any of the preceding provisions of this Part shall be guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the accused of notice of contravention of the preceding provisions of this Part (whichever is the earlier).

S. 43A
inserted by
No. 9803
s. 5(1),
substituted by
No. 10092
s. 15(1),
amended by
Nos 127/1986
s. 102(Sch. 4
item 8.2),
22/1987
s. 12(1)(a)(b).

43A Provision concerning motor vehicles

S. 43A(1)
amended by
Nos 20/1988
ss 12(a), 14(a),
49/2000
s. 3(5).

- (1) A person who is the registered owner of a motor vehicle, the owner of an unregistered motor vehicle or the driver of a motor vehicle which is used on a highway and at the time of use—

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- (a) is not equipped with any device or equipment required by the regulations to be fitted to the motor vehicle so as to prevent or minimize pollution; or
- (b) is capable of emitting into the atmosphere any matter that does not comply with any prescribed—
- (i) emission standard; or
 - (ii) standard of maximum permissible concentration—
- for emissions—

S. 43A(1)(a)
amended by
No. 127/1986
s. 102(Sch. 4
item 8.2).

shall be guilty of an offence.

Penalty: 60 penalty units.

* * * * *

S. 43A(2)-(4)
repealed.¹

Part VII—Control of solid wastes and pollution of land

Pt 7
(Heading and
ss 44, 45)
amended by
No. 9758
s. 5(a)(b),
substituted by
No. 10092
s. 16(1).

44 Discharge or deposit of waste onto land to comply with policy

S. 44
substituted by
No. 10092
s. 16(1).

The discharge or deposit of waste onto land—

S. 44(a)
amended by
No. 37/2002
s. 11(q).

- (a) shall at all times be in accordance with declared State environment protection policy or waste management policy specifying acceptable standards and conditions therefor; and
- (b) shall comply with any standards applicable under this Act.

45 Pollution of land

S. 45
substituted by
No. 10092
s. 16(1).

S. 45(1)
amended by
No. 20/1988
s. 7(f).

- (1) A person shall not pollute land so that the condition of the land is so changed as to make or be reasonably expected to make the land or the produce of the land—
 - (a) noxious or poisonous;
 - (b) harmful or potentially harmful to the health or welfare of human beings;
 - (c) poisonous, harmful or potentially harmful to animals, birds or wildlife;
 - (d) poisonous, harmful or potentially harmful to plants or vegetation;

- (e) obnoxious or unduly offensive to the senses of human beings; or
 - (f) detrimental to any beneficial use made of the land.
- (2) Without in any way limiting the generality of subsection (1) a person shall be deemed to have polluted land in contravention of subsection (1) if—
- (a) that person causes or permits to be placed in or on any land or in any place where it may gain access to any land any matter whether solid, liquid or gaseous which—
 - (i) is prohibited by or under this Act; or
 - (ii) does not comply with any standard prescribed for that matter; or
 - (b) that person establishes on any land—
 - (i) a refuse dump;
 - (ii) a garbage tip;
 - (iii) a soil and rock disposal site;
 - (iv) any other site for the disposal of or as a repository for solid or liquid waste—so as to be obnoxious or unduly offensive to the senses of human beings or interfere with any beneficial use of any groundwater.
- (3) A person who contravenes any of the provisions of this section shall be guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority of notice of contravention of this section.

S. 45(2)
amended by
Nos 20/1988
s. 7(g),
49/2000
s. 27(c).

S. 45(3)
amended by
Nos 86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (13)
(a)–(c)).

Pt 7A
(Heading and
ss 45A–45ZL)
inserted by
No. 37/2002
s. 40.

Part VIIA—Litter and material that may become litter

Division 1—Preliminary matters

S. 45A
inserted by
No. 37/2002
s. 40.

45A Object of Part

The object of this Part is—

- (a) to prohibit and regulate the deposit of litter in the environment; and
- (b) to regulate the distribution of materials that may become litter; and
- (c) to enable the removal of detrimental or disorderly objects and other things.

S. 45B
inserted by
No. 37/2002
s. 40.

45B Definitions

In this Part—

land means any land, whether publicly or privately owned, and includes any buildings or other structures permanently affixed to the land;

place includes a receptacle, a vehicle and any waters;

vehicle means—

- (a) any thing that is capable of transporting a person, including an aeroplane, boat, bicycle, bus, car, horse, train or tram; or
- (b) any trailer that is attached to any such thing.

45C Governor in Council may declare body to be a litter authority

S. 45C
inserted by
No. 37/2002
s. 40.

The Governor in Council may, by Order published in the Government Gazette, declare any body to be a litter authority for the purposes of this Part.

45D Part does not apply to environment protection offences

S. 45D
inserted by
No. 37/2002
s. 40.

- (1) This Part does not apply to the deposit of any litter that constitutes an offence under any other Part of this Act.
- (2) Any person who intends to rely on this section as a defence to a charge must give the person filing the charge-sheet containing the charge written notice of this intention within 21 days of receiving a summons in respect of the charge.
- (3) The notice must specify under which provision of this Act the person believes the charge would have been more appropriately brought if the allegations set out in the charge were proved.

S. 45D(2)
amended by
No. 68/2009
s. 97(Sch.
item 50.11).

Division 2—Littering offences

45E Deposit of litter generally

S. 45E
inserted by
No. 37/2002
s. 40.

- (1) A person must not deposit any litter unless—
 - (a) the person deposits the litter in a place—
 - (i) that is provided for the deposit of litter; and
 - (ii) that is appropriate for litter of that size, shape, nature or volume; or
 - (b) the person deposits the litter in or on a place in such a way that it cannot leave the place without human assistance and the person—
 - (i) owns, controls or is in possession of the place; or

- (ii) is acting with the express consent of the person who owns, controls or is in possession of the place; or
- (c) the person is authorised to deposit the litter by or under an Act or a Commonwealth Act; or
- (d) the deposit of the litter is an unavoidable consequence of a lawful activity; or
- (e) the deposit is accidental and the person does everything that is reasonably possible to retrieve the litter.

Penalty: 40 penalty units.

- (2) For the purposes of subsection (1)(d), a consequence is unavoidable if there is no reasonably practicable way of avoiding it.

S. 45F
inserted by
No. 37/2002
s. 40.

45F Aggravated littering

A person convicted of an offence under section 45E is guilty of the offence of aggravated littering if the court which convicts the person is satisfied that the offence involved—

- (a) the intentional deposit of glass, metal, earthenware or crockery; or
- (b) the intentional deposit of litter that was a danger to any person or animal or to any land, waters or vehicle; or
- (c) the intentional deposit of litter on, from or towards any vehicle.

Penalty: In addition to, or instead of, any penalty under section 45E, 60 penalty units or imprisonment for 1 month or both.

45G Owners, drivers etc. of vehicles from which litter deposited liable for littering

S. 45G
inserted by
No. 37/2002
s. 40.

- (1) If litter is deposited from a vehicle contrary to section 45E, the following are deemed to be guilty of an offence against section 45E—
 - (a) the driver of the vehicle; and
 - (b) the registered owner of the vehicle; and
 - (c) any person authorised by the registered owner to use the vehicle at the time the offence was committed.
- (2) If a person deposits litter contrary to section 45E and was seen arriving at or leaving the place where he or she deposited the litter in a vehicle, the registered owner of the vehicle is deemed to be guilty of an offence against section 45E.
- (3) However, a court must not find a person guilty under this section unless the court is satisfied that no other person has been found guilty of depositing the litter and that—
 - (a) it is not practicable to discover who deposited the litter; or
 - (b) it is not possible to file a charge-sheet against the person who deposited the litter;
or
 - (c) it is unlikely that the filing of a charge-sheet against the person who deposited the litter would result in a finding of guilt.
- (4) Also, a court must not find the registered owner or authorised user of a vehicle guilty under subsection (1) unless it is satisfied that it is not possible to file a charge-sheet against the driver of the vehicle.

S. 45G(3)(b)
amended by
No. 68/2009
s. 97(Sch.
item 50.12).

S. 45G(3)(c)
amended by
No. 68/2009
s. 97(Sch.
item 50.12).

S. 45G(4)
amended by
No. 68/2009
s. 97(Sch.
item 50.13).

S. 45H
inserted by
No. 37/2002
s. 40.

45H Other exceptions to section 45G

- (1) Section 45G(1) does not apply if—
 - (a) the vehicle is a train, tram, bus, ferry, passenger ship, passenger plane or other public transport vehicle; and
 - (b) the litter was deposited by a passenger of that vehicle; and
 - (c) the vehicle was being used for a public purpose at the time the offence was committed.
- (2) Section 45G(1) does not apply if the vehicle is a commercial passenger vehicle (within the meaning of the **Commercial Passenger Vehicle Industry Act 2017**) and the litter was deposited by a passenger.
- (3) Sections 45G(1)(b), 45G(1)(c) and 45G(2) do not apply if the vehicle was a stolen vehicle at the time of the offence.
- (4) Sections 45G(1) and 45G(2) do not apply if the person who is deemed to be guilty gives a statutory declaration that complies with section 45I within 14 days after receiving a notice under section 45J to the person named in the notice.

S. 45H(2)
amended by
No. 63/2017
s. 21(Sch. 1
item 3).

45I Form of statutory declaration

- (1) The statutory declaration must—
 - (a) declare that the person saw another named person deposit the litter and declare—
 - (i) the address of that person; or
 - (ii) that the person does not know the address of that person and the reasons why the person does not know the address; or

S. 45I
inserted by
No. 37/2002
s. 40.

(b) declare—

- (i) that the person did not deposit the litter;
and
 - (ii) that the person did not see who
deposited the litter; and
 - (iii) the name and address (if known) of any
person who was in or near the vehicle
at the time the litter was deposited.
- (2) If a person who is deemed to be guilty is not a natural person, the person may comply with section 45H(4) by giving the litter enforcement officer a statutory declaration made by the person who was driving the vehicle at the time of the offence.
- (3) A statutory declaration that complies with this section is admissible in any proceedings as evidence of the matters stated in it.

45J Notice to accompany infringement notice or charge-sheet using section 45G

S. 45J
(Heading)
amended by
No. 68/2009
s. 97(Sch.
item 50.14).
S. 45J
inserted by
No. 37/2002
s. 40.

- (1) A person who issues an infringement notice, or files a charge-sheet, against a person who is deemed guilty under section 45G(1) or 45G(2) must ensure that the infringement notice, or the charge-sheet, is accompanied by a notice under this section.
- (2) The notice must—
- (a) contain a copy of sections 45E, 45G, 45H and 45I; and

S. 45J(1)
amended by
Nos 61/2006
s. 51, 68/2009
s. 97(Sch.
item 50.15).

- (b) name the person giving the notice; and
- (c) contain that person's business address.

Division 3—Offences concerning material that may become litter

S. 45K
inserted by
No. 37/2002
s. 40.

45K Meaning of unsolicited document

For the purposes of this Division, a document is unsolicited if it is deposited at a premises without being addressed by name to a person who owns or occupies the premises.

S. 45L
inserted by
No. 37/2002
s. 40.

45L Unsolicited documents must be put in mailboxes etc.

- (1) A person delivering an unsolicited document to a premises must not deposit the document in any place on the premises other than—
 - (a) a receptacle, slot or other place that is used for the deposit of mail at the premises; or
 - (b) a receptacle or slot that is used for the deposit of newspapers at the premises; or
 - (c) under the door of the premises; or
 - (d) a place that is in a building and that is suitable for the deposit of the document.

Penalty: 10 penalty units.

- (2) Subsection (1) does not apply to—
 - (a) any newspaper, or any material folded or inserted into a newspaper; or
 - (b) any document issued under, in accordance with, or for the purposes of, any Act or Commonwealth Act; or
 - (c) any document that is given personally to a person at the premises; or

- (d) any document that is of such a size, shape or volume that it is not possible or appropriate for it to be deposited in accordance with subsection (1).

45M Advertising material not to be deposited in certain mailboxes etc.

S. 45M
inserted by
No. 37/2002
s. 40.

- (1) In this section *advertising material* means any material advertising goods or services, regardless of whether or not the sale of the goods or services is for a charitable purpose, but does not include—
 - (a) any stamped mail delivered by, or on behalf of, Australia Post;
 - (b) any material that has a political purpose;
 - (c) a newspaper or magazine;
 - (d) any public notice issued by a litter authority or a body supplying electricity, gas, water, transport or a similar service;
 - (e) any document issued under, or for the purposes of, any Act or Commonwealth Act;
 - (f) any other document issued by, or on behalf, of any government or government agency.
- (2) A person must not deposit any advertising material in any receptacle, slot or place listed in section 45L(1)(a) or (b), or under the door of a premises, if there is a legible sign or marking on or near that receptacle, slot, place or door—
 - (a) that states "No Advertising Material" or "No Junk Mail" or that contains any other words in English indicating that advertising material is not to be deposited in that receptacle, slot or place, or under that door; and

- (b) that is clearly visible to a person depositing an item in that receptacle, slot or place or under that door.

Penalty: 10 penalty units.

S. 45N
inserted by
No. 37/2002
s. 40.

45N Leaflets etc. not to be placed on vehicles

- (1) A person must not deposit any document in or on any vehicle without the express consent of the owner or driver of the vehicle.

Penalty: 10 penalty units.

- (2) This section does not apply to the deposit of any document by a person exercising a power given to him or her by any law.

S. 45O
inserted by
No. 37/2002
s. 40.

45O Bill posting not to occur without consent

A person must not affix any document on to any fixed structure without the express consent of the owner, occupier or manager of the structure.

Penalty: 10 penalty units.

S. 45P
inserted by
No. 37/2002
s. 40.

45P Advertiser must disclose name of distributor

- (1) This section applies to a person who commissions the printing of a document that is distributed as an unsolicited document.
- (2) The person must give a litter enforcement officer the name and address of the person who was responsible for distributing the document in a particular area.
- (3) The person must comply with subsection (2) within 7 days after receiving a written request for the information from the officer.

Penalty: 10 penalty units.

45Q Distributor must disclose name of depositor

S. 45Q
inserted by
No. 37/2002
s. 40.

- (1) A person who engages another person (whether as an employee or as an agent) to deposit unsolicited documents at premises within an area must give a litter enforcement officer the name and address of that other person.
- (2) The person must do this within 7 days after receiving a written request for the information from the officer.

Penalty: 10 penalty units.

45R Person who commissions document must ensure that it does not become litter

S. 45R
inserted by
No. 37/2002
s. 40.

- (1) This section applies to a person who commissions the printing of a document that the person distributes, or intends to have distributed, as an unsolicited document.
- (2) The person must ensure that the document is distributed in a way that prevents it from becoming litter.

Penalty: 20 penalty units.

- (3) It is a defence to a charge under this section for the person charged to show that he, she or it took all reasonable steps to comply with this section.

Division 4—Other offences

45S Offence to ask person to commit offence

S. 45S
inserted by
No. 37/2002
s. 40.

A person must not ask, require or induce, or attempt to ask, require or induce, another person to do anything that is an offence under this Part.

Penalty: 20 penalty units.

S. 45T
inserted by
No. 37/2002
s. 40.

45T Offence to deface or set fire to public litter receptacles

- (1) A person must not deface a receptacle for litter provided by a litter authority.
Penalty: 10 penalty units.
- (2) A person must not set fire to a receptacle for litter provided by a litter authority.
Penalty: 10 penalty units.

S. 45U
inserted by
No. 37/2002
s. 40.

45U Offences concerning the loading of vehicles

- (1) A person must not require another person to move a vehicle carrying a load unless he or she supplies the other person with sufficient means to secure the load in such a way that litter cannot leave the vehicle without human assistance.
Penalty: 10 penalty units.
- (2) A person who is in control of a moving vehicle must ensure that it is loaded in such a way that litter cannot leave the vehicle without human assistance.
Penalty: 10 penalty units.
- (3) It is a defence to a charge under subsection (2) if the person was required to move the vehicle by a person who was in breach of subsection (1).

Division 5—Removal of litter and disorderly things

S. 45V
inserted by
No. 37/2002
s. 40.

45V Litterer must remove litter if asked

A person must remove any litter deposited by that person if asked to do so by a litter enforcement officer.

Penalty: 10 penalty units.

45W Court may order removal of litter

S. 45W
inserted by
No. 37/2002
s. 40.

- (1) If a court convicts a person of an offence under this Part, the court may—
- (a) instead of, or in addition to, any other penalty, order the person to—
 - (i) clear away and remove the litter deposited by the person; or
 - (ii) clear away and remove any other litter in or on any land or waters—
within a specified time and under the supervision of a person nominated by the court; or
 - (b) in addition to any other penalty, order the person to pay a sum of compensation for removal of the litter to the person who, or body which, has the control or management of the land or waters where the offence occurred.
- (2) The following provisions apply to an order under subsection (1)(a)—
- (a) the court may also order that if the person contravenes the order, that person must pay a fine of not more than 40 penalty units;
 - (b) if the person complies with the order, the person nominated by the court to supervise must send to the person a statement to that effect;
 - (c) if the person contravenes the order, the court may, on application by the person nominated to supervise, issue a summons requiring the person to show cause why the fine referred to in paragraph (a) should not be imposed;

(d) on hearing the summons, the court may make any order under this Act which it considers appropriate in respect of the person who contravened the order.

(3) The compensation specified in an order under subsection (1)(b) to be paid to a person or body is to be treated as a debt due to that person or body.

S. 45X
inserted by
No. 37/2002
s. 40.

45X Person may be directed to remove litter

- (1) This section applies if, in the opinion of a litter authority, any litter that is on or in any land or waters under the control or management of the litter authority is, or is likely to become—
- (a) detrimental to the health, safety or welfare of members of the public; or
 - (b) unduly offensive to the senses of human beings; or
 - (c) a hazard to the environment.
- (2) The litter authority may, by written notice, direct any person who deposited the litter to do one or more of the following—
- (a) to remove or dispose of the litter;
 - (b) to restore any place affected by the litter to a state as close as practicable to the state it was in immediately before the litter was deposited;
 - (c) to take any other action in relation to the litter that is specified in the notice—
- within the time specified in the notice.
- (3) A person who receives such a direction must comply with it.

Penalty: 40 penalty units.

- (4) If the person who deposited the litter cannot be found, the litter authority may, by written notice, direct the occupier of any premises on which the litter was deposited to remove or dispose of the litter within the time specified in the notice.
- (5) An occupier who receives such a direction must comply with it, unless he, she or it has reasonable cause not to do so.
Penalty: 40 penalty units.
- (6) The Authority may exercise its powers as a litter authority under this section in respect of any litter in Victoria to which, in the opinion of the Authority, subsection (1)(a), (1)(b) or (1)(c) applies.

45Y Person may be directed to remove disorderly etc. objects or things

S. 45Y
inserted by
No. 37/2002
s. 40.

- (1) This section applies if any object or thing is deposited on or in any place under the control or management of the litter authority and—
 - (a) in the opinion of the litter authority—
 - (i) the object or thing is detrimental to the health, safety or welfare of members of the public while it remains in that place; or
 - (ii) the object or thing is unduly offensive to the senses of human beings while it remains in that place; or
 - (iii) the object or thing is a hazard to the environment while it remains in that place; or
 - (b) the size, shape, nature or volume of the object or thing makes the place where it is deposited disorderly, or detrimentally affects the proper use of that place.

- (2) The litter authority may, by written notice, direct any person who deposited the object or thing to do one or more of the following—
- (a) to remove or dispose of the object or thing;
 - (b) to restore any place affected by the object or thing to a state as close as practicable to the state it was in immediately before the object or thing was deposited;
 - (c) to take any other action in relation to the object or thing that is specified in the notice—
- within the time specified in the notice.
- (3) A person who receives such a direction must comply with it.
- Penalty: 40 penalty units.
- (4) If the person who deposited the object or thing cannot be found, the litter authority may, by written notice, direct the occupier of any premises on which the object or thing was deposited to remove or dispose of the object or thing within the time specified in the notice.
- (5) An occupier who receives such a direction must comply with it, unless he, she or it has reasonable cause not to do so.
- Penalty: 40 penalty units.
- (6) The Authority may exercise its powers as a litter authority under this section in respect of any object or thing in any place in Victoria to which subsection (1)(a) or (1)(b) applies.
- (7) A reference in this section to an object or thing does not include a reference to a fixture.

45Z Authority may remove litter or object or thing if direction not complied with

S. 45Z
inserted by
No. 37/2002
s. 40.

- (1) If a person fails to comply with a direction given under section 45X(2) or 45X(4), the litter authority may remove or dispose of the litter.
- (2) If a person fails to comply with a direction given under section 45Y(2) or 45Y(4), the litter authority may remove or dispose of the object or thing.
- (3) The litter authority may recover any reasonable costs incurred by it in taking action under this section as a debt due to it by the person who failed to comply with the direction.
- (4) Subsection (3) does not apply to a direction given under section 45X(4) or 45Y(4) if the occupier of the premises had reasonable cause not to comply with the direction.

45ZA Occupier may recover cost of removing litter from litterer

S. 45ZA
inserted by
No. 37/2002
s. 40.

- (1) An occupier of premises may recover the reasonable costs of complying with a direction under section 45X(4) or 45Y(4) from any person who deposited the litter or object or thing as a debt due to the occupier.
- (2) The cost of complying with a direction includes any reasonable costs incurred in taking action under subsection (1).

Division 6—Prevention of litter

45ZB Litter abatement notice

S. 45ZB
inserted by
No. 37/2002
s. 40.

- (1) If—
 - (a) a person carries out any activity that has caused, or is likely to cause, the deposit of litter contrary to section 45E; or

- (b) a person is the occupier of premises from which litter has, or is likely to, escape—
a litter enforcement officer may serve a litter abatement notice on the person.
- (2) A litter abatement notice may require the person to do one or more of the following—
- (a) to not deposit litter contrary to section 45E;
 - (b) to ensure that no litter escapes from any premises occupied by the person;
 - (c) to do, or not do, specified things to ensure that the person does not breach this Part.
- (3) A person who has been served with a litter abatement notice must comply with the notice.
Penalty: 20 penalty units.
- (4) A litter abatement notice may specify a period of time within which any requirement it imposes must be complied with.

S. 45ZC
inserted by
No. 37/2002
s. 40.

45ZC Period for which notice remains in force

- (1) A litter abatement notice remains in force for the period specified in the notice.
- (2) A period of up to 3 years may be specified in the notice.

S. 45ZD
inserted by
No. 37/2002
s. 40.

45ZD Form of notice

A litter abatement notice must—

- (a) contain a copy of sections 36AA, 45ZB, 45ZC and 45ZE; and
- (b) specify the period for which it remains in force; and
- (c) be signed by the person giving the notice.

45ZE Amendment or revocation of notice

A litter enforcement officer may amend or revoke a litter abatement notice at any time by serving a written notice of amendment on the person to whom the litter abatement notice applies.

S. 45ZE
inserted by
No. 37/2002
s. 40.

Division 7—Particular litter enforcement powers

45ZF Powers of entry of litter enforcement officers

If—

- (a) a litter enforcement officer reasonably suspects that an offence against section 45E, 45F, 45X(3), 45X(5), 45Y(3), 45Y(5) or 45ZB(3) is being, or is likely to be, committed on a premises; and
- (b) the officer reasonably believes that the part of the premises where the offence is occurring, or is likely to occur, is not used for residential purposes—

the officer may enter that part of the premises at any reasonable time for the purpose of enforcing this Part.

S. 45ZF
inserted by
No. 37/2002
s. 40.

45ZG Requirement to give name and address

- (1) This section applies if a litter enforcement officer believes on reasonable grounds that a person has committed an offence under this Part.
- (2) The officer may ask the person to state his or her name and ordinary place of residence or business.
- (3) In making the request, the officer must inform the person of the grounds for his or her belief that the person has committed an offence.
- (4) A person who, in response to the request—
 - (a) refuses or fails to comply with the request without a reasonable excuse for not doing so;
or

S. 45ZG
inserted by
No. 37/2002
s. 40.

- (b) states a name that is false in a material detail;
or
- (c) states an address other than the full and
correct address of his or her ordinary place
of residence or business—

is guilty of an offence and is liable to a penalty not
exceeding 20 penalty units.

- (5) If a person states a name and address in response
to a request made under subsection (2) and the
officer suspects on reasonable grounds that the
stated name or address may be false, the officer
may request the person to produce evidence of the
correctness of the name and address.
- (6) The person must comply with the request, unless
he or she has a reasonable excuse for not doing so.
Penalty: 20 penalty units.
- (7) It is not an offence for a person to fail to comply
with a request made under subsection (2) or (5) if
the officer did not inform the person, at the time
the request was made, that it is an offence to fail
to comply with the request.

S. 45ZH
inserted by
No. 37/2002
s. 40.

45ZH Officers must identify themselves

While exercising a power under this Part, a litter
enforcement officer must produce on demand
proof of his or her identity and official status.

S. 45ZI
inserted by
No. 37/2002
s. 40.

45ZI Litter enforcement officer may require certain people to give information

- (1) This section only applies to a person who a litter
enforcement officer believes on reasonable
grounds—
 - (a) had possession of particular litter at some
time in the past; or

- (b) was responsible for commissioning the production of, for producing or for distributing, material that became particular litter.
- (2) The officer may require the person to give the officer within 14 days, or any longer time that the officer specifies, information concerning the litter.
- (3) A reference to litter in this section includes a reference to any substance that constitutes the litter, regardless of whether that substance was litter at the time it was in the person's possession.
- (4) A requirement must be set out in a written notice.
- (5) The notice must—
 - (a) set out the information the officer seeks from the person;
 - (b) specify the date by when the information is required;
 - (c) contain a copy of this section and section 45ZJ;
 - (d) be signed by the officer;
 - (e) contain the officer's business address.
- (6) The information an officer may require from a person may include—
 - (a) how, when and where the litter came into or left the person's possession;
 - (b) the name and address of anyone who had possession of the litter after the litter left the person's possession;
 - (c) the name and address of anyone else involved in the commissioning of the material that became the litter.

- (7) If required to do so by a notice, a person must give the officer within the time specified in the notice all the information sought in the notice that is within the person's knowledge or in the person's possession.

Penalty: 10 penalty units.

- (8) However, any information given by a person in response to a notice under this section is not admissible in any prosecution against the person if, before giving the information, the person objected to giving the information on the ground that it might tend to incriminate him or her. This doesn't apply if the information was false or misleading.

S. 45ZJ
inserted by
No. 37/2002
s. 40.

45ZJ Officer may require information to be in writing

- (1) If asked to do so by the litter enforcement officer, a person required to give the officer information under section 45ZI must give the information to the officer in writing.
- (2) If information sought by a notice under section 45ZI is not within a person's knowledge or in the person's possession, the person must state this fact in writing if asked to do so by the officer.
- (3) A failure by a person to comply with subsection (1) or (2) is a failure to comply with section 45ZI(7).
- (4) A person must not include any false or misleading information in a written statement made under this section.

Penalty: 20 penalty units.

- (5) Subject to section 45ZI(8), a statement made under this section is admissible in evidence in any proceedings.

45ZK Reports of offences

- (1) A person who sees another person committing an offence under this Part may inform the Authority or the relevant Council of the offence by sending it a signed written report containing—
 - (a) the date, approximate time and place of the offence; and
 - (b) the nature of the litter; and
 - (c) any evidence of the identity of the person who committed the offence.
- (2) On receiving a report under subsection (1), the Authority or Council may take proceedings through its relevant officers against the person seen committing the offence.

S. 45ZK
inserted by
No. 37/2002
s. 40.

S. 45ZK(2)
amended by
No. 61/2006
s. 52.

45ZL Savings provisions

- (1) In this section, *relevant date* means the date of commencement of Part 4 of the **Environment Protection (Resource Efficiency) Act 2002**.
- (2) Any order, notice or requirement made under the **Litter Act 1987** that was in force immediately before the relevant date continues in force as if it had been made under the equivalent provision of this Part.
- (3) Any litter abatement notice that was in force immediately before the relevant date in relation to any object or thing that was litter under the **Litter Act 1987** continues in force as if that object or thing was still litter after the relevant date.
- (4) Any Order in respect of a body made under section 4 of the **Litter Act 1987** that was in force immediately before the relevant date continues in force as if it was an Order made under section 45C declaring the body to be a litter authority.

S. 45ZL
inserted by
No. 37/2002
s. 40.

- (5) A person who was an authorised officer under the **Litter Act 1987** immediately before the relevant date is deemed to be a litter enforcement officer on the same terms that applied to his or her appointment as an authorised officer under that Act.
- (6) Any reference to the **Litter Act 1987** in any Act, subordinate instrument, agreement or other document as far as it relates to any period on or after the relevant date is to be treated as a reference to this Part unless the contrary intention appears.
- (7) Nothing in this section is intended to limit the operation of the **Interpretation of Legislation Act 1984**.

Pt 7A Div. 8
(Heading and
ss 45ZM,
45ZN)
inserted by
No. 27/2019
s. 6.

Division 8—Banned plastic bags

S. 45ZM
inserted by
No. 27/2019
s. 6.

45ZM Retailer must not provide banned plastic bags

A retailer must not sell or provide a banned plastic bag to a person to carry or transport goods sold or provided by the retailer from the retail premises.

Penalty: In the case of a natural person,
60 penalty units;

In the case of a body corporate,
300 penalty units.

S. 45ZN
inserted by
No. 27/2019
s. 6.

45ZN Provision of false or misleading information relating to banned plastic bags

A retailer or wholesaler, or a manufacturer of plastic bags, must not, whether by act or omission, provide to any other person information that the retailer, wholesaler or manufacturer knows, or

should reasonably know, is false or misleading about—

- (a) the composition of a banned plastic bag; or
- (b) whether or not a bag is a banned plastic bag;
or
- (c) whether or not a bag is an exempt plastic bag.

Penalty: In the case of a natural person,
60 penalty units;

In the case of a body corporate,
300 penalty units.

Part VIII—Control of noise

46 Emission of noise to comply with policy

The emission of noise shall at all times be in accordance with State environment protection policy specifying acceptable conditions for emitting noise and shall comply with any standards or limitations prescribed therefor under this Act.

S. 46A inserted by No. 10092 s. 8(2) (as amended by No. 10160 s. 5(2)), repealed by No. 87/1989 s. 34.	*	*	*	*	*
S. 47 substituted by No. 9207 s. 5(1), amended by No. 9758 s. 5(a)(b), substituted by No. 10092 s. 11(3) (as amended by No. 10160 s. 7(3)), amended by Nos 22/1987 s. 13(a)(b), 45/1987 s. 205(Sch. item 24), 87/1989 ss 7(b), 10(e)–(g) (as amended by No. 86/1990 s. 13(2)(b)), 23(d), 35(a)(b), 86/1990 s. 5(a)(b), repealed by No. 49/2000 s. 11(6).	*	*	*	*	*

Environment Protection Act 1970
No. 8056 of 1970
Part VIII—Control of noise

* * * * *

S. 47A
inserted by
No. 10092
s. 11(3) (as
amended by
No. 10160
s. 7(3)),
amended by
Nos 87/1989
ss 7(b), 10(e)
(i)(ii)(g) (as
amended by
No. 86/1990
s. 13(2)(b)),
23(e), 36,
20/1988
s. 11(b)(i)(ii),
86/1990
s. 5(e)(f),
repealed by
No. 49/2000
s. 11(6).

48 Objectionable noise an offence

(1) Any person who emits or causes or suffers to be emitted objectionable noise within the meaning of the regulations shall be guilty of an indictable offence.

S. 48(1)
amended by
No. 49/2000
s. 3(15)(Sch.
item (14)).

* * * * *

S. 48(2)
repealed by
No. 9207
s. 5(2).

(3) Any person who contravenes any of the provisions of this section shall be liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the accused of notice of contravention of the provisions of this section (whichever is the earlier).

S. 48(3)
amended by
Nos 9758
s. 5(a)(b),
10092
s. 29(3)(a),
87/1989
s. 7(h),
86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (15)(a)
(b)), 68/2009
s. 97(Sch.
item 50.16).

48A Unreasonable noise from residential premises

S. 48A
inserted by
No. 8823
s. 3(1),
amended by
No. 9758 s. 7,
substituted by
No. 10261
s. 19(1).

(1) In this section—

S. 48A(1)
def. of
council officer
inserted by
No. 49/2000
s. 11(8).

council officer means a person who is authorised
by a municipal council to enforce
subsections (3) and (8);

S. 48A(1)
def. of
court officer
inserted by
No. 22/1987
s. 5(a),
amended by
Nos 57/1989
s. 3(Sch.
item 64.4),
46/1998
s. 7(Sch. 1).

court officer means—

- (a) a magistrate; or
- (b) a registrar of the Magistrates' Court—

who has been appointed by the Secretary to
the Department of Justice for the purposes of
this section;

habitable room means any room other than a
kitchen, storage area, bathroom, laundry,
toilet or pantry;

residential premises means any building or part of
a building used as or for the purposes of a
private residence or residential flat.

(2) In this section a reference to residential premises
from which unreasonable noise is emitted includes
a reference to—

- (a) any land, building or appurtenances used for
or in connection with any residential
premises;

- (b) any outbuilding situated on land used in connection with any residential premises;
and
 - (c) any land upon which a residential premises is under construction.
- (3) A person who emits or causes or suffers to be emitted unreasonable noise from any residential premises is guilty of an offence.
- (4) For the purposes of subsection (3), noise is to be taken to be unreasonable if it is unreasonable having regard to—
- (a) its volume, intensity or duration; and
 - (b) the time, place and other circumstances in which it is emitted.
- (5) Without limiting the generality of subsection (3), any noise from a prescribed item which—
- (a) is emitted from residential premises at any time which is prescribed as a prohibited time in respect of that prescribed item; and
 - (b) can be heard in a habitable room in any other residential premises, regardless of whether any door or window giving access to that room is open—
- is deemed to be unreasonable noise unless it is emitted in the case of an emergency.
- (6) If a police officer or a council officer reasonably suspects that an offence against this section is being, or has been, committed, that police officer or council officer may direct—
- (a) any person suspected of committing the offence; or

S. 48A(6)
substituted by
No. 49/2000
s. 11(9),
amended by
No. 37/2014
s. 10(Sch.
item 56.2(a)).

(b) any person apparently in charge of the premises on which the offence is occurring or is suspected to have occurred—

to take such action as the police officer or council officer considers necessary to abate the noise or to prevent the suspected offence from recurring.

S. 48A(7)
substituted by
No. 78/2012
s. 23.

(7) A direction given under subsection (6) remains in force for the period specified by the direction not exceeding 72 hours after the direction is given.

S. 48A(8)
amended by
Nos 87/1989
s. 7(b),
86/1990
s. 5(g)(h),
49/2000
s. 3(15)(Sch.
item (16)(a)
(b)).

(8) Any person who contravenes a direction given under this section is guilty of an offence against this Act and liable to a penalty of not more than 120 penalty units and, in the case of a continuing offence, to a daily penalty of not more than 30 penalty units for each day during which the offence continues after conviction.

S. 48A(8A)
inserted by
No. 22/1987
s. 5(b),
amended by
No. 37/2014
s. 10(Sch.
item 56.2(b)).

(8A) A police officer using such force as is reasonably necessary may enter any residential premises from which unreasonable noise is emitted to investigate the emission if an order to that effect has been made under subsection (8F).

S. 48A(8B)
inserted by
No. 22/1987
s. 5(b),
amended by
No. 37/2014
s. 10(Sch.
item 56.2(b)).

(8B) After entering any residential premises pursuant to an order under subsection (8F) and investigating the emission of noise, the police officer may give any direction under subsection (6) which the police officer considers necessary to abate the unreasonable noise.

S. 48A(8C)
inserted by
No. 22/1987
s. 5(b),
amended by
Nos 49/2000
s. 3(15)(Sch.
item (17)),
37/2014
s. 10(Sch.
item 56.2(b)).

(8C) Any person who delays or obstructs a police officer in taking any action which is authorised by an order under subsection (8F) or who, being the occupier of any premises, refuses to permit a police officer to take any action which is authorised by an order under that subsection, is guilty of an offence and liable to a penalty of not more than 240 penalty units.

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No. 8056 of 1970
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- (8D) An application for an order under subsection (8F) must be made by a police officer of or above the rank of senior constable to a court officer. **S. 48A(8D) inserted by No. 22/1987 s. 5(b), amended by No. 37/2014 s. 10(Sch. item 56.2(b)).**
- (8E) A police officer may make an application under subsection (8D) for an order only if the police officer has reasonable grounds to believe that no other measure would be effective to abate the unreasonable noise. **S. 48A(8E) inserted by No. 22/1987 s. 5(b), amended by No. 37/2014 s. 10(Sch. item 56.2(c)).**
- (8F) If the court officer to whom an application is made under subsection (8D) is satisfied that no other measure would be effective to abate the unreasonable noise, the court officer may make an order empowering a police officer, using such force as is reasonably necessary, to enter residential premises for the purpose of investigating the emission of noise. **S. 48A(8F) inserted by No. 22/1987 s. 5(b), amended by No. 37/2014 s. 10(Sch. item 56.2(d)).**
- (8G) An order under subsection (8F) may be made subject to any conditions that the court officer thinks fit. **S. 48A(8G) inserted by No. 22/1987 s. 5(b).**
- (9) Notwithstanding section 59(2), proceedings for an offence against this section may be taken by any of the following persons and only by them—
- (a) a person claiming to be directly affected by the alleged offence;
 - (b) a police officer; or
- S. 48A(9) amended by No. 20/1988 s. 21(2)(a).**
S. 48A(9)(b) amended by No. 37/2014 s. 10(Sch. item 56.2(d)).

S. 48A(9)(c)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 37.5),
substituted by
No. 49/2000
s. 11(10).

(c) a council officer.

S. 48A(10)
amended by
No. 12/1989
s. 4(1)(Sch. 2
items 37.6,
37.7),
repealed by
No. 49/2000
s. 11(6).

* * * * *

S. 48AB
inserted by
No. 10261
s. 20.

48AB Noise from entertainment venues

S. 48AB(2)
amended by
No. 37/2014
s. 10(Sch.
item 56.3).

(1) In this section *entertainment venue* means any premises or place where music is performed or played but does not include residential premises within the meaning of section 48A(1) or a church.

(2) If a police officer receives a complaint from a person who lives near an entertainment venue and is aggrieved by noise emitted from the entertainment venue the police officer may—

(a) enter the entertainment venue; and

(b) direct any person apparently in charge of the entertainment venue to take such action as the police officer considers necessary to abate the noise.

(3) A direction under subsection (2)—

(a) given before midnight takes effect at midnight and remains in force until 8 o'clock in the morning; or

(b) given after midnight takes effect immediately and remains in force until 8 o'clock in the morning.

S. 48AB(2)(b)
amended by
No. 37/2014
s. 10(Sch.
item 56.3).

(4) Any person who contravenes a direction given under this section is guilty of an offence against this Act and liable to a penalty of not more than 600 penalty units.

S. 48AB(4) amended by Nos 87/1989 s. 7(b), 86/1990 s. 5(a), 49/2000 s. 3(15)(Sch. item (18)).

(5) Notwithstanding section 59(2), a police officer may also take proceedings for an offence against this section.

S. 48AB(5) amended by Nos 20/1988 s. 21(2)(b), 37/2014 s. 10(Sch. item 56.3).

48B Special provision concerning motor vehicles

S. 48B inserted by No. 8823 s. 3(1).

(1) A person who is the registered owner of a motor vehicle, the owner of an unregistered motor vehicle or the driver of a motor vehicle which—

(a) is used on a highway; and

(b) is at the time of use capable of emitting noise that does not comply with any standard prescribed for the purposes of this section—

shall be guilty of an offence and liable to a penalty of not more than 30 penalty units.

S. 48B(1) amended by Nos 9758 s. 8(1)(a), 10092 s. 15(2)(a)(i)(ii), 127/1986 s. 102(Sch. 4 item 8.2), 22/1987 s. 14, 20/1988 s. 12(b), 49/2000 s. 3(15)(Sch. item (19)).

* * * * *

S. 48B(2)–(2C) repealed.²

* * * * *

S. 48B(3) repealed by No. 10261 s. 29(4).

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S. 48B(4)(5)
repealed by
No. 10092
s. 15(2)(c).

* * * * *

S. 48B(6)
amended by
No. 9758
s. 8(1)(b),
repealed by
No. 10092
s. 15(2)(c).

* * * * *

S. 48C
(Heading)
inserted by
No. 65/2010
s. 420(Sch. 3
item 6.3).
S. 48C
inserted by
No. 8823
s. 3(1).

48C Special provision concerning vessels

S. 48C(1)
amended by
Nos 9758
s. 8(2)(a),
10092
s. 15(3)(a),
49/2000
s. 3(15)(Sch.
item (20)),
65/2010
s. 420(Sch. 3
item 6.4).

- (1) A person who is the registered owner of a vessel which—
- (a) is used in any Victorian waters; and
 - (b) is at the time of use capable of emitting noise that does not comply with any standard prescribed for the purposes of this section—
- shall be guilty of an offence and liable to a penalty of not more than 30 penalty units.

S. 48C(2)
amended by
Nos 10092
s. 15(3)(b),
65/2010
s. 420(Sch. 3
item 6.4).

- (2) In any proceedings for an offence against this section, evidence that a vessel was found upon measurement or test made by an authorized officer not more than six weeks after the date of the alleged offence to be capable of emitting noise that did not comply with any standard prescribed for the purposes of this section shall be prima facie evidence that the vessel was so capable on the said date.

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	*	*	*	*	*	
						S. 48C(3) repealed by No. 10261 s. 29(4).
	*	*	*	*	*	S. 48C(4)(5) repealed by No. 10092 s. 15(3)(c).
	*	*	*	*	*	S. 48C(6) amended by No. 9758 s. 8(2)(b), repealed by No. 10092 s. 15(3)(c).
48D Offences concerning manufacture and sale of equipment etc.						S. 48D inserted by No. 9207 s. 7.
	*	*	*	*	*	S. 48D(1) repealed by No. 10092 s. 17(1)(a).
(2) The occupier of any premises where any of the following is manufactured, assembled, supplied, distributed or sold—						S. 48D(2) amended by Nos 10092 s. 17(1)(b)(i)(ii), 87/1989 s. 30(g).
(a) any new tool machine or equipment powered by internal combustion or electric engine or by hydraulic or pneumatic means and for which noise emission standards are prescribed by regulations;						
(b) any new vehicle—						
which when operated under specified test conditions emits noise which is not in accordance with any noise emission standard prescribed for the purposes of this section for such tool machine equipment or vehicle shall be guilty of an offence.						

Environment Protection Act 1970
No. 8056 of 1970
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S. 48D(3)
substituted by
No. 10092
s. 17(1)(c),
amended by
Nos 10261
s. 22(b),
87/1989
s. 30(h).

(3) The occupier of any premises upon which there is sold to members of the public any equipment, facility, instrument, device or any new vehicle required by this Act—

(a) to be fitted or equipped with any device or equipment so as to prevent or minimize the emission of noise; or

S. 48D(3)(b)
amended by
No. 10261
s. 22(a).

(b) to be fitted or packaged with a prescribed plate, label or other marking stating such information as is prescribed—

without the equipment, facility, instrument, device or new vehicle being so fitted, packaged or equipped shall be guilty of an offence.

S. 48D(3A)
inserted by
No. 10092
s. 17(1)(c),
amended by
No. 87/1989
s. 30(h).

(3A) The occupier of any premises upon which any noise control device is sold which when fitted to a vehicle in accordance with the fitting instructions still leaves the vehicle capable of emitting noise that does not comply with the standard prescribed shall be guilty of an offence.

S. 48D(4)
amended by
Nos 9758
s. 5(a)(b),
87/1989
s. 7(b),
86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (21)
(a)–(c)),
68/2009
s. 97(Sch.
item 50.17).

(4) Any person who contravenes any requirement of this section shall be guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and, in the case of a continuing offence, to a daily penalty of not more than 1200 penalty units for each day during which the offence continues after conviction or after service by the Authority on the accused of notice of contravention of the provisions of this section (whichever is the earlier).

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- (5) No prosecution shall be instituted against the occupier of any premises who carries on the business of selling by retail any tool, machine or equipment specified in paragraph (a) of subsection (2) or any new vehicle unless—
- (a) the occupier purchased the tool, machine, equipment or vehicle from a manufacturer, assembler, supplier or distributor who does not carry on business in Victoria; or
 - (b) the occupier modified the tool, machine, equipment or vehicle after he acquired such tool, machine, equipment or vehicle.
- (6) The Minister may not recommend to the Governor in Council standards for the purpose of this section unless he has given due consideration to any relevant standards in force in other States or Territories of the Commonwealth.

S. 48D(5)
amended by
Nos 10092
s. 17(1)(d),
87/1989
s. 30(i).

S. 48D(5)(a)
amended by
No. 10092
s. 17(1)(d).

S. 48D(5)(b)
amended by
No. 10092
s. 17(1)(d).

Part IX—Resource efficiency

Pt 9 (Heading and ss 49–53) repealed,³
new Pt 9 (Heading and ss 49–52E) inserted by No. 53/1992 s. 4.

Pt 9 (Heading) substituted by No. 37/2002 s. 4.

Pt 9 Div. 1 (Heading and ss 49–49M) inserted by No. 53/1992 s. 4, amended by Nos 20/1994 s. 17(b), 31/1994 s. 4(Sch. 2 item 29.2), substituted as Pt 9 Div. 1 (Heading and s. 49) by No. 65/1996 s. 6, substituted as Pt 9 Div. 1 (Heading and ss 49, 49A) by No. 54/2010 s. 68.

Division 1—Preliminary

S. 49 substituted by No. 54/2010 s. 68.

49 Objects of this Part

The objects of this Part are to—

- (a) foster environmentally sustainable uses of resources and foster best practices in waste management to advance the social and economic development of Victoria; and
- (b) facilitate and promote activities that are directed to climate change including the adaptation and adjustment to climate change.

49A Definitions

In this Part—

S. 49A
inserted by
No. 54/2010
s. 68.

adaptation means any change in natural or human systems in response to actual or expected climatic stimuli or their effects which moderates harm or exploits beneficial opportunities;

S. 49A def. of
adaptation
amended by
No. 43/2012
s. 3(Sch.
item 16).

climate change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

Division 1A—Sustainability covenants

Pt 9 Div. 1A
(Heading and
ss 49AA–
49AP)
inserted by
No. 37/2002
s. 5.

49AA Sustainability covenants

A sustainability covenant is an agreement under which a person or body undertakes—

S. 49AA
inserted by
No. 37/2002
s. 5.

- (a) to increase the efficiency with which the person or body uses resources to produce products or services; and
- (b) to reduce the ecological impact of those products or services and of the processes by which they are produced.

S. 49AB
inserted by
No. 37/2002
s. 5.

49AB Meaning of *member of an industry*

For the purposes of this Division, a person is a member of an industry if the person is in control (whether as owner, occupier, lessee, hirer, employer or otherwise) of any process used to produce, or that may be used to produce, any of the products or services that the industry produces.

S. 49AC
inserted by
No. 37/2002
s. 5.

49AC Authority may enter into sustainability covenants

- (1) The Authority may become a signatory to a sustainability covenant for an industry if—
 - (a) in the opinion of the Authority, the covenant is, or is likely to be, effective in increasing the resource use efficiency, or reducing the ecological impact, of the industry; and
 - (b) the covenant will be readily accessible to the public and will be published on the Internet; and
 - (c) the covenant authorises the copying of all or any part of the covenant by any person who wishes to do so and also authorises the use by such a person of any copies made by the person.
- (2) If the Authority agrees or undertakes to provide any benefit to a person or body because the person or body is a signatory to a sustainability covenant, the Authority must publish a copy of the agreement or undertaking on the Internet within 3 days after entering into the agreement or undertaking.

49AD Declaration that industry may have a significant impact on the environment

S. 49AD
inserted by
No. 37/2002
s. 5.

- (1) The Governor in Council, on the recommendation of the Authority, may declare that an industry has the potential to have a significant impact on the environment.
- (2) A declaration has no effect until it is published in the Government Gazette.
- (3) In making a declaration the Governor in Council may define the industry to which the declaration applies in any manner that the Governor in Council considers to be appropriate.
- (4) Without limiting subsection (3), the Governor in Council may define part of an industry to be an industry for the purposes of the declaration.
- (5) The Governor in Council, on the recommendation of the Authority, may amend or revoke a declaration by notice published in the Government Gazette.
- (6) The Authority may not recommend to the Governor in Council that a declaration under this section be made in respect of a primary production industry.
- (7) For the purposes of subsection (6), a primary production industry is an industry that is solely or substantially engaged in agricultural, horticultural, viticultural, fishing or similar activities.

49ADA Declaration may be disallowed

S. 49ADA
inserted by
No. 37/2002
s. 5.

- (1) On or before the 6th sitting day after a declaration made under section 49AD is published in the Government Gazette, the Minister must ensure that a copy of the declaration is laid before each House of the Parliament.

- (2) A failure to comply with subsection (1) does not affect the operation or effect of the declaration but the Scrutiny of Acts and Regulations Committee of the Parliament may report the failure to each House of the Parliament.
- (3) A declaration may be disallowed in whole or in part by either House of Parliament.
- (4) Part 5 of the **Subordinate Legislation Act 1994** applies to a declaration as if—
 - (a) a reference in that Part to a "statutory rule" was a reference to the declaration; and
 - (b) a reference in section 23(1)(c) of that Part to "section 15(1)" was a reference to subsection (1).

S. 49AE
inserted by
No. 37/2002
s. 5.

49AE Procedure to be followed before recommendation made

- (1) Before recommending that the Governor in Council make or amend a declaration under section 49AD in respect of an industry, the Authority—
 - (a) must publish a statement, on the Authority's Internet site and in a newspaper circulating generally throughout Victoria, that it is intending to make the recommendation; and
 - (b) must outline in that statement—
 - (i) the reasons for its intention; and
 - (ii) if a sustainability covenant already exists for the industry, any outcomes achieved under that covenant; and
 - (c) must advise where a copy of the full reasons for its intention can be obtained or examined; and

- (d) must include with the statement a further statement inviting anyone with an interest in the matter to make comments to the Authority within 21 days after the date of publication of the statement; and
 - (e) must consider any comments that are made in response to the invitation.
- (2) Subsection (1) does not apply to a declaration—
- (a) that revokes an existing declaration; or
 - (b) that amends an existing declaration if the amendment is of a machinery or administrative nature.
- (2A) Subsection (1) does not apply in respect of a declaration proposed to be made under section 49AD if the Minister certifies in writing that in the opinion of the Minister a process equivalent to that required by subsection (1) has already been undertaken in the development of a national environment protection measure, a State environment protection policy or a waste management policy.
- (3) The Authority must publish on its Internet site—
- (a) a summary of the submissions it receives in response to an invitation made under subsection (1); and
 - (b) its response to those submissions.
- (4) The Authority must also give a copy of its response to each person who lodged a separate submission (or in the case of a submission made on behalf of a number of people, to a nominated representative of those people).
- (5) The Authority must, on request, provide a copy of any comment that it receives in response to an invitation made under subsection (1) to any member of Parliament.

S. 49AE(2A)
inserted by
No. 61/2006
s. 53.

S. 49AF
inserted by
No. 37/2002
s. 5.

49AF Authority may require statement of ecological impact

- (1) This section applies if—
 - (a) a declaration is in force under section 49AD in respect of an industry; and
 - (b) there is a sustainability covenant with respect to the industry; and
 - (c) the Authority is a signatory to the covenant; and
 - (d) a person who is a member of the industry either—
 - (i) is not a signatory to the covenant; or
 - (ii) is a signatory to the covenant, but has been determined by the processes set out in the covenant not to be meeting one or more undertakings made by the person in entering the covenant.
- (2) The Authority may require the person to produce a statement that assesses, in relation to any enterprise or process controlled by the person in the industry—
 - (a) what resources the enterprise or process is using and in what quantities those resources are being used; and
 - (b) how the resource use efficiency of the enterprise or process can be improved; and
 - (c) the actual or potential ecological impacts of the enterprise or process and of the products or services produced by the enterprise or process; and
 - (d) how those impacts can be reduced.

- (3) In making such a requirement, the Authority may also require that the statement, or specified parts of the statement, be published publicly in a specified type of publication or forum.

49AG Statement of ecological impact may also be required if industry fails to create covenant

S. 49AG
inserted by
No. 37/2002
s. 5.

- (1) This section applies if—
- (a) a declaration is in force under section 49AD in respect of an industry; and
 - (b) the Authority, is of the opinion, after having consulted with the members of the industry, that an insufficient number of the members of the industry are prepared to create and enter into an effective sustainability covenant to make such a covenant viable.
- (2) The Authority may require each member of the industry to produce a statement that assesses, in relation to each enterprise or process controlled by the member in the industry—
- (a) what resources the enterprise or process is using and in what quantities those resources are being used; and
 - (b) how the resource use efficiency of the enterprise or process can be improved; and
 - (c) the actual or potential ecological impacts of the enterprise or process and of the products or services produced by the enterprise or process; and
 - (d) how those impacts can be reduced.
- (3) In making such a requirement, the Authority may also require that the statement, or specified parts of the statement, be published publicly in a specified type of publication or forum.

- (4) In imposing a requirement on a member of an industry under this section, the Authority must impose the same requirement on each other member of the industry, unless, in any particular case, no purpose would be served in doing so.

S. 49AH
inserted by
No. 37/2002
s. 5.

49AH Requirement to take action to address major inefficiencies or impacts

- (1) This section applies if a statement produced in accordance with a requirement made under section 49AF or 49AG states—
- (a) that an enterprise or process is a significant user of resources and that the resource use efficiency of the enterprise or process can be improved; or
 - (b) that an enterprise or process has, or the products or services produced by an enterprise or process have, major actual or potential ecological impacts and that those impacts can be reduced.
- (2) The Authority may require the person who was required to produce the statement, in relation to the enterprise, process, products or services—
- (a) to produce a plan of proposed actions to implement the resource use efficiency improvements or ecological impact reductions identified in the statement; and
 - (b) to specify in the plan the key actions that are to be undertaken and the timeframes within which those actions are to be taken; and
 - (c) to specify in the plan resource efficiency or ecological impact reduction targets; and
 - (d) to specify in the plan a method for monitoring compliance with the plan (which may include the public reporting of the results of that monitoring); and

- (e) to implement the plan; and
 - (f) to take any specified action under the plan that has not been taken.
- (3) The Authority may also require the person, in relation to the enterprise, process, products or services—
- (a) to assess alternative practices and product stewardship approaches to improve the use efficiency of specified resources or to reduce any ecological impacts identified by the Authority; and
 - (b) to take specified actions to meet specified resource efficiency, or ecological impact reduction, targets; and
 - (c) to publicly report in a specified type of publication or forum specified information in relation to resource efficiency or ecological impact reduction; and
 - (d) to undertake specified audits using an environmental auditor, and to report the results of those audits, in relation to resource efficiency or ecological impact reduction.
- (4) In the case of a statement produced in accordance with a requirement made under section 49AF, the Authority may also require the person to do anything else that the person would be obliged to do under the sustainability covenant referred to in section 49AF(1)(a) if the person was a signatory to the covenant and was honouring the obligations that would, or that could reasonably be expected to, apply to the person under the covenant.

S. 49AI
inserted by
No. 37/2002
s. 5.

49AI How requirements under sections 49AF, 49AG and 49AH are to be made

- (1) A requirement under section 49AF, 49AG or 49AH must be made by the Authority by serving a written notice on the person on whom the requirement is to be imposed that sets out—
 - (a) the requirement that the person must comply with; and
 - (b) by when the requirement must be complied with; and
 - (c) in the case of a requirement made under section 49AF or 49AH, a copy of section 36BA.
- (2) In specifying by when a requirement must be complied with, the Authority must not specify a date that is less than 30 days after the day on which the notice is served.

S. 49AJ
inserted by
No. 37/2002
s. 5.

49AJ Restriction concerning public notice requirements

In requiring a person to publicly publish any information under section 49AF, 49AG or 49AH, the Authority cannot require the person to publish any information that is of a confidential or commercially sensitive nature.

S. 49AK
inserted by
No. 37/2002
s. 5.

49AK How statements of ecological impact to be produced

A person who is required to produce a statement under section 49AF or 49AG—

- (a) must produce the statement in accordance with any specified guidelines made under section 49AN; and
- (b) must ensure that the statement is accompanied by a certificate signed by an environmental auditor stating that the statement has been produced in compliance with those guidelines; and

- (c) must give a copy of the statement to the Authority.

49AL Authority may amend requirement

S. 49AL
inserted by
No. 37/2002
s. 5.

- (1) The Authority may at any time, in relation to any requirement imposed by it under section 49AF, 49AG or 49AH—
- (a) revoke or amend the requirement; or
 - (b) extend the period within which the requirement must be complied with; or
 - (c) waive a time limit imposed in relation to the requirement and impose a new time limit in relation to that requirement.
- (2) The revocation, amendment, extension or waiver must be made by the Authority by serving a written notice on the person on whom the requirement was imposed.
- (3) If a requirement imposed under section 49AF, 49AG or 49AH is amended less than 30 days before it is to be complied with, the Authority must extend the time limit applying to the requirement to ensure that the person who has to comply with it has at least 30 days within which to comply with it.
- (4) In the case of a requirement imposed under section 49AG, the Authority must not exercise any power conferred on it by this section in a way that discriminates between the members of the industry on whom the requirement was imposed.
- (5) Subsection (4) also applies to requirements imposed under section 49AH if those requirements arise from a statement produced in response to a requirement imposed under section 49AG.

S. 49AM
inserted by
No. 37/2002
s. 5.

49AM Offence to fail to comply with Authority requirement

- (1) A person on whom a requirement is imposed by the Authority under section 49AF, 49AG or 49AH—
 - (a) must comply with the requirement; and
 - (b) must do so within the time specified by the Authority in the notice imposing the requirement, or in any notice served under section 49AL (whichever is the later); and
 - (c) must comply with section 49AK in complying with the requirement.
- (2) A person who contravenes subsection (1) is guilty of an indictable offence and is liable to a penalty not exceeding 2400 penalty units.
- (3) A person who contravenes subsection (1) is also liable to an additional daily penalty of 1200 penalty units for each day the offence continues after the person—
 - (a) is convicted of the offence; or
 - (b) is served with a written notice by the Authority stating that, in the opinion of the Authority, the person is contravening subsection (1).

S. 49AN
inserted by
No. 37/2002
s. 5.

49AN Guidelines for the production of statements

- (1) The Authority may produce and publish guidelines concerning—
 - (a) product stewardship approaches;
 - (b) how to assess the resource use efficiency or ecological impact of all or part of an industry or of any enterprise, process, product or service;

- (c) how resource use efficiencies may be made and how ecological impacts may be reduced;
 - (d) how a statement of the resource use efficiency and the ecological impact of any enterprise, process, product or service is to be produced.
- (2) Without limiting the matters that may be dealt with in the guidelines, the guidelines may—
- (a) specify measures and methods for determining for the purposes of this Division whether an enterprise or process is, or has the potential to become, a significant resource user;
 - (b) specify measures and methods for determining whether the resource use efficiency of an enterprise or process can be improved;
 - (c) specify measures and methods for determining for the purposes of this Division whether an enterprise, process, product or service has significant actual or potential ecological impacts;
 - (d) specify measures and methods for determining whether the ecological impact of an enterprise, process, product or service can be reduced.
- (3) The guidelines may apply generally, or to a specified industry, or both generally in some respects and to particular industries in other respects.
- (4) Before publishing a guideline under this section, the Authority—
- (a) must advertise, in a newspaper circulating generally throughout Victoria, that it has prepared a draft guideline; and

- (b) must include in the advertisement—
 - (i) an outline of the draft guideline; and
 - (ii) advice as to where a copy of the draft guideline can be obtained or examined; and
 - (iii) a statement inviting anyone with an interest in the matter to make comments to the Authority within 21 days after the date of publication of the advertisement; and
 - (c) must publish on the Authority's Internet site a copy of the draft guideline and a copy of the statement required by paragraph (b)(iii); and
 - (d) must consider any comments that are made in response to the invitation made under paragraph (b)(iii) and (c).
- (5) Subsection (4) does not apply to a guideline—
- (a) that revokes an existing guideline; or
 - (b) that amends an existing guideline if the amendment is of a machinery or administrative nature.
- (6) A guideline has no effect until notice of its making is published in the Government Gazette.
- (7) On or before the 6th sitting day after notice of the making of a guideline is published in the Government Gazette, the Minister must ensure that a copy of the guideline is laid before each House of the Parliament.
- (8) A failure to comply with subsection (7) does not affect the operation or effect of the guideline but the Scrutiny of Acts and Regulations Committee of the Parliament may report the failure to each House of the Parliament.

- (9) A guideline may be disallowed in whole or in part by either House of Parliament.
- (10) Part 5 of the **Subordinate Legislation Act 1994** applies to a guideline as if—
- (a) a reference in that Part to a "statutory rule" was a reference to the guideline; and
 - (b) a reference in section 23(1)(c) of that Part to "section 15(1)" was a reference to subsection (7).

49AO Authority may conduct audits

S. 49AO
inserted by
No. 37/2002
s. 5.

For the purposes of this Division, the Authority may undertake audits—

- (a) to provide an assessment of the ecological impact of an industry or part of an industry;
- (b) to provide an assessment of product stewardship approaches;
- (c) to determine where resource use efficiencies may be gained and where ecological impacts may be reduced.

49AP Listing of covenants and statements to be kept

S. 49AP
inserted by
No. 37/2002
s. 5.

- (1) The Authority must establish and maintain a list of—
- (a) the sustainability covenants to which it is a signatory; and
 - (b) the statements that have been produced in accordance with a requirement made under section 49AF or 49AG.
- (2) The Authority must ensure that the list is published on its Internet site and that it is updated on a regular basis.

Division 2—Local Government Waste Forums

Pt 9 Div. 2
(Heading and
ss 50A–50D)
inserted by
No. 53/1992
s. 4,
amended by
No. 99/1994
s. 30(1)
(a)(b)(2),
substituted as
Pt 9 Div. 2
(Heading and
ss 49A–49K)
by No.
65/1996 s. 6,
amended by
Nos 46/1998
s. 7(Sch. 1) (as
amended by
No. 12/1999
s. 3(Sch. 1
item 8)),
44/2001
s. 3(Sch.
item 37.1),
37/2002
ss 11(r),
13–16,
108/2004
s. 117(1)
(Sch. 3
item 68.7),
repealed by
No. 65/2005
s. 23(2), new
Pt 9 Div. 2
(Heading and
ss 49AQ–
49AU)
inserted by
No. 54/2010
s. 69,
repealed by
No. 78/2012
s. 20, new Pt 9
Div. 2
(Heading
and s. 49B)
inserted by
No. 20/2014
s. 5.

49B Local Government Waste Forums

New s. 49B
inserted by
No. 20/2014
s. 5.

- (1) There is to be a Local Government Waste Forum for each waste and resource recovery region consisting of representatives of the councils in the region.
- (2) Each council in a waste and resource recovery region may nominate a representative to a Local Government Waste Forum for that region.
- (3) The functions of a Local Government Waste Forum are—
 - (a) to nominate the 4 persons who are to be the representatives of the councils for the purposes of section 49K(2)(a); and
 - (b) if there is a vacancy in the office of a director nominated under section 49K(2)(a), to nominate a person to fill that vacancy; and
 - (c) to advise the Board of directors of the Waste and Resource Recovery Group on matters and issues affecting the role of councils in waste management and resource recovery; and
 - (d) to act as a conduit for consultation between the Waste and Resource Recovery Group and the councils in the waste and resource recovery region of that Group.
- (4) A Local Government Waste Forum must develop procedures for the purposes of subsections (3)(a) and (3)(b) with the councils.

Pt 9 Div. 2AA
(Heading and
ss 49L–49R)
inserted by
No. 37/2002
s. 17,
amended by
No. 65/2005
ss 23(3)(4), 24,
substituted as
Pt 9 Div. 2AA
(Heading and
ss 49C–49SC)
by No.
20/2014 s. 6.

Division 2AA—Waste and Resource Recovery Groups

New s. 49C
inserted by
No. 20/2014
s. 6.

49C Waste and Resource Recovery Groups

- (1) Subject to section 49D, the following Waste and Resource Recovery Groups are established—
 - (a) the Barwon South West Waste and Resource Recovery Group;
 - (b) the Gippsland Waste and Resource Recovery Group;
 - (c) the Goulburn Valley Waste and Resource Recovery Group;
 - (d) the Grampians Central West Waste and Resource Recovery Group;
 - (e) the Loddon Mallee Waste and Resource Recovery Group;
 - (f) the Metropolitan Waste and Resource Recovery Group;
 - (g) the North East Waste and Resource Recovery Group.
- (2) A Waste and Resource Recovery Group—
 - (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and

- (c) may sue and be sued in its corporate name; and
 - (d) is capable of acquiring, holding and disposing of personal property; and
 - (e) may take land on lease and grant sub-leases of leased land; and
 - (f) subject to this Act, may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) The common seal of a Waste and Resource Recovery Group may only be used in a way approved by the Waste and Resource Recovery Group.
- (4) All courts and people acting judicially must take judicial notice of the common seal of a Waste and Resource Recovery Group.

49D Commencement of Waste and Resource Recovery Groups

New s. 49D
inserted by
No. 20/2014
s. 6.

- (1) The Minister may, by Order published in the Government Gazette, declare the date on which a Waste and Resource Recovery Group commences operation.
- (2) If a Waste and Resource Recovery Group has not commenced operation before 1 July 2015, the Waste and Resource Recovery Group commences operation on that date.
- (3) On the date on which the Metropolitan Waste and Resource Recovery Group commences operation—
 - (a) the Metropolitan Waste and Resource Recovery Group is taken to be the successor in law of the Metropolitan Waste Management Group; and

- (b) the Board of directors of the Metropolitan Waste Management Group is taken to be the Board of directors of the Metropolitan Waste and Resource Recovery Group appointed under section 49K; and
- (c) any reference to the Metropolitan Waste Management Group in any Act other than this Act, regulation, subordinate instrument or other document is taken to be a reference to the Metropolitan Waste and Resource Recovery Group unless the contrary intention appears.

New s. 49E
inserted by
No. 20/2014
s. 6.

49E Waste and Resource Recovery Groups do not represent the Crown

A Waste and Resource Recovery Group is not, and is not to be taken to represent, the Crown.

New s. 49F
inserted by
No. 20/2014
s. 6.

49F A Waste and Resource Recovery Group is a public body and a public entity

Despite section 49E, a Waste and Resource Recovery Group is—

- (a) a public body to which Part 7 of the **Financial Management Act 1994** applies; and
- (b) a public entity for the purposes of the **Public Administration Act 2004**.

New s. 49G
inserted by
No. 20/2014
s. 6.

49G Objectives of Waste and Resource Recovery Groups

- (1) The objectives of a Waste and Resource Recovery Group are—
 - (a) to undertake waste and resource recovery infrastructure planning to meet the future needs of its waste and resource recovery region while minimising the environmental and public health impacts of waste and resource recovery infrastructure; and

- (b) to facilitate efficient procurement of waste and resource recovery infrastructure and services for its waste and resource recovery region through the collective procurement of waste management facilities and waste and resource recovery services in the region; and
 - (c) to integrate regional and local knowledge into State-wide waste and resource recovery market development strategies; and
 - (d) to educate businesses and communities within its waste and resource recovery region to reduce waste going to landfill by using waste and resource recovery infrastructure and services efficiently; and
 - (e) to ensure Regional Waste and Resource Recovery Implementation Plans and programs are informed by local government, business and community and inform State-wide waste and resource recovery planning and programs.
- (2) In seeking to achieve its objectives, a Waste and Resource Recovery Group must collaborate with councils, Sustainability Victoria, the Authority, industry, business and the community.

49H Functions of Waste and Resource Recovery Groups

New s. 49H
inserted by
No. 20/2014
s. 6.

The functions of a Waste and Resource Recovery Group are—

- (a) to plan for the future needs of waste and resource recovery infrastructure within its waste and resource recovery region consistently with the State-Wide Waste and Resource Recovery Infrastructure Plan; and
- (b) to facilitate the provision of waste and resource recovery infrastructure and services by councils within its waste and resource recovery region; and

- (c) to facilitate the development of contracts for the joint procurement of waste management facilities and waste and resource recovery services within its waste and resource recovery region; and
- (d) to manage contracts in the performance of its objectives and functions; and
- (e) to work with Sustainability Victoria, councils, businesses and communities to ensure State-wide waste and resource recovery education programs are adapted to the needs of its waste and resource recovery region and to facilitate the delivery of those education programs; and
- (f) to advise, with Sustainability Victoria, councils and businesses within its waste and resource recovery region on best practices for waste and resource recovery systems, facilities and services; and
- (g) to support its waste and resource recovery region's Local Government Waste Forum to enable the Waste Forum to perform its functions; and
- (h) to undertake waste and resource recovery projects as funded by government, councils and other organisations.

New s. 49I
inserted by
No. 20/2014
s. 6.

49I Powers of Waste and Resource Recovery Groups

- (1) Subject to subsection (2), a Waste and Resource Recovery Group may do all things that are necessary or convenient to enable it to carry out its functions and achieve its objectives.

- (2) A Waste and Resource Recovery Group cannot—
- (a) own or operate a waste management facility;
or
 - (b) apply for or hold a planning permit; or
 - (c) enter into contracts for the procurement of waste management facilities or waste and resource recovery services, unless the contract is jointly entered into with a procurer under that contract.

49J Board of directors of Waste and Resource Recovery Groups

New s. 49J
inserted by
No. 20/2014
s. 6.

- (1) There is to be a Board of directors of each Waste and Resource Recovery Group consisting of 8 directors appointed in accordance with section 49K.
- (2) The Board of directors of a Waste and Resource Recovery Group—
 - (a) is responsible for the management of the affairs of the Waste and Resource Recovery Group; and
 - (b) may exercise all the powers of the Waste and Resource Recovery Group.

49K The directors of Waste and Resource Recovery Groups

New s. 49K
inserted by
No. 20/2014
s. 6.

- (1) The directors of a Waste and Resource Recovery Group are to be appointed by the Governor in Council on the recommendation of the Minister.
- (2) Of the directors—
 - (a) 4 must be nominated in accordance with section 49B by a Local Government Waste Forum to the Minister for recommendation under subsection (1); and

- (b) 4 must be recommended by the Minister who—
- (i) must recommend a person who, in the opinion of the Minister, has skills, experience or knowledge that will assist the Waste and Resource Recovery Group to carry out its functions and achieve its objectives; and
 - (ii) must attempt to ensure that collectively the directors of the Waste and Resource Recovery Group have skills, experience or knowledge relating to local government, financial management, contract management, risk management, environmental policy, waste management and materials efficiency.
- (3) A person cannot be nominated or recommended for appointment as a director if the person—
- (a) is an insolvent under administration; or
 - (b) has been convicted of an indictable offence or has been imprisoned for any offence within the preceding period of 7 years.
- (4) The Minister must appoint one of the directors nominated under subsection (2)(a) to be the Chairperson of the Board of directors.
- (5) The Board of directors may appoint one of the directors to be the Deputy Chairperson of the Board of directors.
- (6) If a Local Government Waste Forum fails to make any nominations under section 49B within 2 months of being requested in writing by the Minister to do so, the Minister may make any nominations required for the purposes of that section.

49L Conditions of appointment of directors of Waste and Resource Recovery Groups

S. 49L
substituted by
No. 20/2014
s. 6.

- (1) A director of a Waste and Resource Recovery Group—
 - (a) holds office for the period specified in the instrument of appointment, which must be a period of not more than 4 years; and
 - (b) holds office on the terms and conditions determined by the Governor in Council; and
 - (c) may be re-appointed; and
 - (d) may resign from office by delivering a signed letter of resignation to the Governor in Council; and
 - (e) may be removed from office at any time by the Governor in Council.
- (2) The Governor in Council must remove a director from office if the director—
 - (a) becomes an insolvent under administration; or
 - (b) is convicted of an indictable offence or is imprisoned for any offence; or
 - (c) fails to comply with section 49N.

49M Meetings of Waste and Resource Recovery Groups

S. 49M
substituted by
No. 20/2014
s. 6.

- (1) A meeting of a Waste and Resource Recovery Group is to be presided over by—
 - (a) the Chairperson; or
 - (b) in the absence of the Chairperson, the Deputy Chairperson; or
 - (c) in the absence of both the Chairperson and Deputy Chairperson, a director elected by the directors present at the meeting.

- (2) A matter cannot be decided at a meeting unless a majority of the directors appointed for the time being are present.
- (3) The decision on a question of the majority of the directors present and voting on the question is the decision of the Waste and Resource Recovery Group.
- (4) The person presiding at a meeting has—
 - (a) a deliberative vote; and
 - (b) in the event of an equality of votes on any question, a second or casting vote.
- (5) A Waste and Resource Recovery Group may conduct all or any part of a meeting by using telephones, video links or any other system of telecommunication.
- (6) Subject to this Act, a Waste and Resource Recovery Group may regulate its own procedure.

S. 49N
substituted by
No. 20/2014
s. 6.

49N Disclosure of interests of directors of Waste and Resource Recovery Groups

- (1) A director who has a direct or an indirect pecuniary interest in any matter being considered, or about to be considered, by a Waste and Resource Recovery Group must disclose the nature of that interest at a meeting of the Waste and Resource Recovery Group as soon as possible after becoming aware of the relevant facts.
- (2) A director who holds an office or possesses property as a result of which, directly or indirectly, duties or interests may be created in conflict with his or her duties as a director, must disclose that fact at a meeting of a Waste and Resource Recovery Group as soon as possible after becoming aware of the potential conflict.

- (3) The person presiding at a meeting at which a disclosure under this section is made must ensure that the disclosure is recorded in the minutes of the meeting, and that the minutes also record full details of who voted on any matter in respect of which the disclosure was made.
- (4) A person who has made a disclosure under this section must not take any further part in the discussion of, or vote on, the matter to which the disclosure relates.
- (5) If a director votes on a matter in contravention of subsection (4), the vote of the director must be disallowed.
- (6) A director is not to be regarded as having a pecuniary interest—
 - (a) in a matter relating to the supply of goods or services to or by the director if the goods or services are, or are to be, available to members of the public on the same terms and conditions; or
 - (b) in a contract or arrangement only because that contract or arrangement may benefit a company or other body in which the director has a beneficial interest that does not exceed one percent of the total nominal value of beneficial interests in that company or body.

490 Validity of decisions of Waste and Resource Recovery Groups

S. 490
substituted by
No. 20/2014
s. 6.

- (1) An act or decision of a Waste and Resource Recovery Group is not invalid merely because of—
 - (a) a vacancy in the membership of the Waste and Resource Recovery Group; or
 - (b) a defect or irregularity in, or in connection with, the appointment of a director.

- (2) Anything done by or in relation to a person purporting to act as a director is not invalid merely because—
- (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in relation to the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

S. 49P
substituted by
No. 20/2014
s. 6.

49P Power of delegation of Waste and Resource Recovery Groups

A Waste and Resource Recovery Group may, by instrument under its common seal, delegate to the Chairperson, a director, the executive officer, the Chief Executive Officer or any employee of the Waste and Resource Recovery Group any function, duty or power conferred on the Waste and Resource Recovery Group by or under this Act or any other Act, other than this power of delegation.

S. 49Q
substituted by
No. 20/2014
s. 6.

49Q Executive officers and Chief Executive Officer of Waste and Resource Recovery Groups

- (1) Subject to subsection (2), a Waste and Resource Recovery Group must appoint an executive officer of the Waste and Resource Recovery Group.
- (2) The Metropolitan Waste and Resource Recovery Group must appoint a Chief Executive Officer with the approval of the Minister.
- (3) The executive officer or Chief Executive Officer is responsible to the Waste and Resource Recovery Group for the carrying out of the Waste and Resource Recovery Group's functions.

- (4) The executive officer or Chief Executive Officer must comply with the directions of the Waste and Resource Recovery Group.
- (5) The executive officer or Chief Executive Officer may, by instrument, delegate to any employee of the Waste and Resource Recovery Group any responsibility, power, authority, duty or function conferred on the executive officer or Chief Executive Officer by or under this Act, except this power of delegation.

49R Staff of Waste and Resource Recovery Groups

A Waste and Resource Recovery Group may employ any employees that are necessary to enable the Waste and Resource Recovery Group to perform its functions.

S. 49R
substituted by
No. 20/2014
s. 6.

49S Minister may give directions to a Waste and Resource Recovery Group

- (1) The Minister may issue written directions to a Waste and Resource Recovery Group.
- (2) A Waste and Resource Recovery Group must comply with a written direction of the Minister.

S. 49S
substituted by
No. 20/2014
s. 6.

49SA Procurement directions and guidelines for Waste and Resource Recovery Groups

A Waste and Resource Recovery Group must comply with any procurement directions or guidelines issued by the Treasurer in consultation with the Minister in carrying out its functions.

S. 49SA
inserted by
No. 20/2014
s. 6.

49SB Annual business plans of Waste and Resource Recovery Groups

- (1) Each year a Waste and Resource Recovery Group must submit to the Minister for approval, on or before the date required by the Minister, a draft business plan—

S. 49SB
inserted by
No. 20/2014
s. 6.

- (a) that sets out the following—
 - (i) its objectives and priorities for the next 3 financial years;
 - (ii) financial projections for that period;
 - (iii) its budget for the next financial year;
 - (iv) what it intends to do over the next financial year;
 - (v) any other matters that the Minister requires in writing; and
 - (b) that is consistent with—
 - (i) its Regional Waste and Resource Recovery Implementation Plan; and
 - (ii) any relevant waste management or materials efficiency policy approved and published by the Government of Victoria or on behalf of the Government of Victoria.
- (2) After amending its draft business plan in any way required by the Minister, a Waste and Resource Recovery Group must submit a final business plan to the Minister for approval on or before the date required by the Minister.
- (3) A Waste and Resource Recovery Group must not depart significantly from its budget without first obtaining the approval of the Minister.
- (4) A Waste and Resource Recovery Group must have regard to its current business plan in carrying out its functions.

- (5) A Waste and Resource Recovery Group must ensure that a copy of its current business plan is—
- (a) available for inspection by members of the public at its principal place of business whenever that place is open to the public; and
 - (b) published on the Internet.

49SC Application of Local Government Act 1989

- (1) If a council enters into a contract, arrangement or agreement with a Waste and Resource Recovery Group, the council is exempt from the requirements of section 186 of the **Local Government Act 1989**.
- (2) Section 193 of the **Local Government Act 1989** does not apply in respect of the participation of a council in a Local Government Waste Forum.
- (3) If a council engages in procurement activities of a Waste and Resource Recovery Group which comply with any procurement directions or guidelines issued under section 49SA, the council is exempt from the requirements of section 193 of the **Local Government Act 1989**.

S. 49SC
inserted by
No. 20/2014
s. 6.

Pt 9 Div. 2AB
(Heading and
s. 49T)
inserted by
No. 61/2006
s. 41,
substituted as
Pt 9 Div. 2AB
(Heading and
ss 50, 50A) by
No. 20/2014
s. 19.

Division 2AB—Victorian Waste and Resource Recovery Infrastructure Planning Framework

New s. 50
inserted by
No. 20/2014
s. 19.

50 Definition of the Victorian Waste and Resource Recovery Infrastructure Planning Framework

For the purposes of this Act, the *Victorian Waste and Resource Recovery Infrastructure Planning Framework* means—

- (a) the State-Wide Waste and Resource Recovery Infrastructure Plan; and
- (b) the Regional Waste and Resource Recovery Implementation Plans; and
- (c) any guidelines made under section 50CA in relation to the State-Wide Waste and Resource Recovery Infrastructure Plan and Regional Waste and Resource Recovery Implementation Plans; and
- (d) the process under section 50BD facilitating the integration of the State-Wide Waste and Resource Recovery Infrastructure Plan and Regional Waste and Resource Recovery Implementation Plans.

50A Objectives of the Victorian Waste and Resource Recovery Infrastructure Planning Framework

New s. 50A
inserted by
No. 20/2014
s. 19.

The objectives of the Victorian Waste and Resource Recovery Infrastructure Planning Framework are—

- (a) to ensure long-term strategic planning for waste and resource recovery infrastructure at State and regional levels; and
- (b) to facilitate the integration of State-wide directions for the management of waste and resource recovery infrastructure and regional infrastructure needs; and
- (c) to enable waste and resource recovery infrastructure planning to be—
 - (i) effectively integrated with land use and development planning and policy; and
 - (ii) effectively integrated with transport planning and policy; and
- (d) to ensure Sustainability Victoria and the Waste and Resource Recovery Groups work together to integrate the State-Wide Waste and Resource Recovery Infrastructure Plan and Regional Waste and Resource Recovery Implementation Plans; and
- (e) to enable waste and resource recovery infrastructure planning decisions to be made at the appropriate level of the Framework.

Pt 9 Div. 2AC
(Heading and
ss 50–50AS)
inserted by
No. 61/2006
s. 42,
amended by
No. 4/2008
s. 32(Sch.
items 8.3, 8.4),
substituted as
Pt 9 Div. 2AC
(Heading and
ss 50AA–
50AH) by
No. 20/2014
s. 19.

Division 2AC—State-Wide Waste and Resource Recovery Infrastructure Plan

S. 50AA
inserted by
No. 20/2014
s. 19.

50AA Preparation of the State-Wide Waste and Resource Recovery Infrastructure Plan and its objective

- (1) Sustainability Victoria must prepare a State-Wide Waste and Resource Recovery Infrastructure Plan in accordance with this Division.
- (2) The objective of the State-Wide Waste and Resource Recovery Infrastructure Plan is to provide strategic direction for the management of waste and resource recovery infrastructure in Victoria for a period of 30 years.
- (3) Sustainability Victoria must submit a draft State-Wide Waste and Resource Recovery Infrastructure Plan to the Minister within 6 months after the date on which section 19 of the **Environment Protection and Sustainability Victoria Amendment Act 2014** comes into operation.

S. 50AB
substituted by
No. 20/2014
s. 19.

50AB Content of State-Wide Waste and Resource Recovery Infrastructure Plan

- (1) The State-Wide Waste and Resource Recovery Infrastructure Plan must include—
 - (a) a description and strategic analysis of current sources of waste, composition of waste streams and levels of resource recovery; and

- (b) a description and analysis of anticipated future trends in waste generation and resource recovery; and
 - (c) a description and analysis of anticipated future levels of waste generation and resource recovery and processing needs, including an analysis of risks and other issues in the provision of waste and resource recovery infrastructure; and
 - (d) a strategic economic assessment of the options for waste and resource recovery infrastructure in Victoria; and
 - (e) a consideration of the impact of projected population changes on waste generation and processing needs; and
 - (f) an analysis of transport impacts arising from the movement of waste and materials; and
 - (g) an identification of long-term directions for waste and resource recovery infrastructure in order to inform the development of Regional Waste and Resource Recovery Implementation Plans; and
 - (h) any matters required by guidelines made under section 50CA.
- (2) Subject to subsection (3), the State-Wide Waste and Resource Recovery Infrastructure Plan must be consistent with any policy and any government policies.
- (3) If the State-Wide Waste and Resource Recovery Infrastructure Plan is inconsistent with a policy, the policy prevails to the extent of the inconsistency.

S. 50AC
substituted by
No. 20/2014
s. 19.

50AC Consultation during preparation of State-Wide Waste and Resource Recovery Infrastructure Plan

Before submitting a draft State-Wide Waste and Resource Recovery Infrastructure Plan to the Minister, Sustainability Victoria must consult with—

- (a) the Secretary of the Department of Environment and Primary Industries; and
- (b) the Secretary to the Department of Transport, Planning and Local Infrastructure; and
- (c) the Secretary to the Department of Health; and
- (d) the Chairperson; and

S. 50AC(d)
amended by
No. 51/2017
s. 35.

(e) the Chairperson of each Waste and Resource Recovery Group; and

S. 50AC(f)
amended by
No. 10/2017
s. 34(1).

(f) the chairperson of Development Victoria; and

(g) the chief executive of each council.

S. 50AD
substituted by
No. 20/2014
s. 19.

50AD Minister's powers with respect to State-Wide Waste and Resource Recovery Infrastructure Plan

(1) On receiving a draft State-Wide Waste and Resource Recovery Infrastructure Plan, the Minister must—

- (a) approve the Plan; or
- (b) approve the Plan with amendments; or
- (c) return the Plan to Sustainability Victoria for amendment.

- (2) If the Minister returns the State-Wide Waste and Resource Recovery Infrastructure Plan to Sustainability Victoria under subsection (1)(c), the Minister must give directions as to the amendments required to be made to the draft Plan.
- (3) Sustainability Victoria must comply with a direction of the Minister under subsection (2) within 30 days or a longer period specified by the Minister.

50AE Publication of approval of State-Wide Waste and Resource Recovery Infrastructure Plan

**S. 50AE
substituted by
No. 20/2014
s. 19.**

- (1) The Minister must cause to be published in the Government Gazette a notice of approval of the State-Wide Waste and Resource Recovery Infrastructure Plan.
- (2) The notice of approval must be published—
 - (a) in the next general edition of the Government Gazette; or
 - (b) in a special edition of the Government Gazette within 10 working days after the approval of the Plan.
- (3) The State-Wide Waste and Resource Recovery Infrastructure Plan takes effect on—
 - (a) the date on which the notice of approval is published in the Government Gazette; or
 - (b) a later date specified in the notice.
- (4) The State-Wide Waste and Resource Recovery Infrastructure Plan remains in force until it is replaced by another State-Wide Waste and Resource Recovery Infrastructure Plan.

S. 50AF
substituted by
No. 20/2014
s. 19.

50AF Publication of State-Wide Waste and Resource Recovery Infrastructure Plan

- (1) Sustainability Victoria must publish on its Internet site a copy of the State-Wide Waste and Resource Recovery Infrastructure Plan approved by the Minister under section 50AD within 7 days of a notice of approval being published in the Government Gazette.
- (2) Sustainability Victoria must publish on its Internet site a revised copy of the State-Wide Waste and Resource Recovery Infrastructure Plan within 7 days of a notice of approval of an amendment or variation to the Plan being published in the Government Gazette.

S. 50AG
substituted by
No. 20/2014
s. 19.

50AG Amendment and variation of State-Wide Waste and Resource Recovery Infrastructure Plan

- (1) Sustainability Victoria may prepare draft amendments to the State-Wide Waste and Resource Recovery Infrastructure Plan at any time.
- (2) The Minister may at any time direct Sustainability Victoria to prepare draft amendments to the State-Wide Waste and Resource Recovery Infrastructure Plan within a specified period of time.
- (3) The Minister may at any time make a variation to the State-Wide Waste and Resource Recovery Infrastructure Plan that is declaratory, machinery or administrative in nature.
- (4) Sections 50AC, 50AD and 50AE apply to an amendment of the State-Wide Waste and Resource Recovery Infrastructure Plan under subsections (1) and (2) as if the amendment were a draft State-Wide Waste and Resource Recovery Infrastructure Plan.

- (5) Sections 50AD and 50AE apply to a variation of the State-Waste and Resource Recovery Infrastructure Plan under subsection (3) as if the variation were a draft State-Wide Waste and Resource Recovery Infrastructure Plan.

50AH Review of State-Wide Waste and Resource Recovery Infrastructure Plan

S. 50AH substituted by No. 20/2014 s. 19.

- (1) Subject to subsection (2), Sustainability Victoria must prepare a draft revised State-Wide Waste and Resource Recovery Infrastructure Plan based on a review of the existing Plan within 5 years of the date the existing Plan takes effect.
- (2) At any time the Minister may require Sustainability Victoria to prepare a draft revised State-Wide Waste and Resource Recovery Infrastructure Plan within 12 months of the date of the request.

Division 2AD—Regional Waste and Resource Recovery Implementation Plans

Pt 9 Div. 2AD (Heading and ss 50B–50BI) inserted by No. 61/2006 s. 42, substituted as Pt 9 Div. 2AD (Heading and ss 50B–50BH) by No. 20/2014 s. 19.

50B Preparation of draft Regional Waste and Resource Recovery Implementation Plans

S. 50B substituted by No. 20/2014 s. 19.

- (1) Each Waste and Resource Recovery Group must prepare a Regional Waste and Resource Recovery Implementation plan for its waste and resource recovery region.
- (2) Subject to subsection (3), each Waste and Resource Recovery Group must submit a draft Regional Waste and Resource Recovery Implementation Plan to Sustainability Victoria

and to the Authority within 12 months after the State-Wide Waste and Resource Recovery Infrastructure Plan takes effect.

- (3) A draft Regional Waste and Resource Recovery Implementation Plan must be submitted by the Metropolitan Waste and Resource Recovery Group within 3 months after the date on which the first State-Wide Waste and Resource Recovery Infrastructure Plan takes effect.
- (4) The Authority must make any comments within 60 days after receiving a draft Regional Waste and Resource Recovery Implementation Plan.

S. 50BA
substituted by
No. 20/2014
s. 19.

50BA Objective of Regional Waste and Resource Recovery Implementation Plans

The objective of a Regional Waste and Resource Recovery Implementation Plan is to set out how the waste and resource recovery infrastructure needs of a waste and resource recovery region will be met over at least a 10 year period.

S. 50BB
substituted by
No. 20/2014
s. 19.

50BB Content of Regional Waste and Resource Recovery Implementation Plans

- (1) A Regional Waste and Resource Recovery Implementation Plan must include—
 - (a) a description and analysis of waste and resource recovery infrastructure within its waste and resource recovery region, including a consideration of—
 - (i) environmental and financial performance; and
 - (ii) current infrastructure and anticipated opportunities for providing infrastructure across the waste and resource recovery region; and

- (iii) the waste and resource recovery infrastructure needs, priorities and preferred locations for the waste and resource recovery region; and
- (iv) regional transport and land use planning; and
- (b) a description of how the long-term directions in the State-Wide Waste and Resource Recovery Infrastructure Plan will be implemented to give effect to local and regional infrastructure needs within the waste and resource recovery region; and
- (c) a schedule of existing and required waste and resource recovery infrastructure within the waste and resource recovery region including—
 - (i) the type, general location and other requirements of new waste and resource recovery infrastructure, other than landfills; and
 - (ii) the timeframe for when new waste and resource recovery infrastructure is needed; and
 - (iii) an identification of steps required to align the schedule with local planning schemes; and
 - (iv) the proposed sequence for the filling of available landfill sites for at least the next 10 years; and
 - (v) a program for replacing and rehabilitating landfill sites; and
 - (vi) the intended or likely date of closure of each landfill site; and
 - (vii) options for future landfill capacity and resource recovery infrastructure; and

- (d) any matters required by guidelines made under section 50CA.
- (2) Subject to subsection (3), a Regional Waste and Resource Recovery Implementation Plan must be consistent with any policy and any government policies.
- (3) If a Regional Waste and Resource Recovery Implementation Plan is inconsistent with a policy, the policy prevails to the extent of the inconsistency.

S. 50BC
substituted by
No. 20/2014
s. 19.

50BC Consultation during preparation of Regional Waste and Resource Recovery Implementation Plans

Before submitting a draft Regional Waste and Resource Recovery Implementation Plan to Sustainability Victoria and to the Authority under section 50B, a Waste and Resource Recovery Group must consult with—

S. 50BC(b)
amended by
No. 51/2017
s. 36.

(a) the Secretary of the Department of Environment and Primary Industries; and

(b) the Chairperson; and

(c) the Chairperson of Sustainability Victoria; and

(d) the Chairperson of each Waste and Resource Recovery Group; and

S. 50BC(e)
amended by
No. 10/2017
s. 34(2).

(e) the chairperson of Development Victoria; and

(f) the chief executive of each council within its waste and resource recovery region.

50BD Further preparation of Regional Waste and Resource Recovery Implementation Plans

S. 50BD
substituted by
No. 20/2014
s. 19.

- (1) On the submission of a draft Regional Waste and Resource Recovery Implementation Plan under section 50B, each Waste and Resource Recovery Group and Sustainability Victoria must work together to integrate the priorities and directions of the Regional Waste and Resource Recovery Implementation Plan and the State-Wide Waste and Resource Recovery Infrastructure Plan and to resolve any differences in the Plans.
- (2) Each Waste and Resource Recovery Group and Sustainability Victoria are jointly responsible for integrating the Plans for a period of up to 6 months.
- (3) Sustainability Victoria and each Waste and Resource Recovery Group must—
 - (a) take into account any comments made by the Authority under section 50B(4); and
 - (b) amend the schedule of existing and required waste and resource recovery infrastructure within the draft Regional Waste and Resource Recovery Implementation Plan if the Authority objects to the inclusion of a proposed landfill on the ground that it is unlikely to meet the requirements of a relevant policy.
- (4) The integration process in subsections (1) to (3) must comply with any guidelines issued under section 50CA.
- (5) A Waste and Resource Recovery Group must submit a draft Regional Waste and Resource Recovery Implementation Plan to the Minister for approval—

- (a) no later than 6 months after submitting a draft to Sustainability Victoria and the Authority under section 50B; and
 - (b) not before either the Authority has provided its comments under section 50B(4) or the 60 days in which the Authority may comment on the Plan have expired.
- (6) On receiving a draft Regional Waste and Resource Recovery Implementation Plan under subsection (5) the Minister must—
- (a) approve the Plan; or
 - (b) approve the Plan with amendments; or
 - (c) return the Plan to the relevant Waste and Resource Recovery Group for amendment.
- (7) If the Minister returns the Regional Waste and Resource Recovery Implementation Plan to a Waste and Resource Recovery Group under subsection (6)(c), the Minister must give directions as to the amendments required to be made to the draft Plan.
- (8) A Waste and Resource Recovery Group must comply with a direction of the Minister under subsection (7) within 30 days or a longer period specified by the Minister.

S. 50BE
substituted by
No. 20/2014
s. 19.

50BE Publication of approval of Regional Waste and Resource Recovery Implementation Plans

- (1) The Minister must cause to be published in the Government Gazette a notice of approval of a Regional Waste and Resource Recovery Implementation Plan.
- (2) The notice of approval must be published—
 - (a) in the next general edition of the Government Gazette; or

- (b) in a special edition of the Government Gazette within 10 working days after the approval of the Plan.
- (3) A Regional Waste and Resource Recovery Implementation Plan takes effect on—
 - (a) the date on which the notice of approval is published in the Government Gazette; or
 - (b) a later date specified in the notice.
- (4) A Regional Waste and Resource Recovery Implementation Plan remains in force until it is replaced by another Regional Waste and Resource Recovery Implementation Plan.

50BF Publication of Regional Waste and Resource Recovery Implementation Plans

**S. 50BF
substituted by
No. 20/2014
s. 19.**

- (1) A Waste and Resource Recovery Group must publish a copy of its Regional Waste and Resource Recovery Implementation Plan on its Internet site within 7 days of a notice of approval of the Plan being published in the Government Gazette.
- (2) Sustainability Victoria must publish a copy of a Regional Waste and Resource Recovery Implementation Plan on its Internet site within 7 days of a notice of approval of the Plan being published in the Government Gazette.
- (3) A Waste and Resource Recovery Group and Sustainability Victoria must each publish on its Internet site a revised copy of a Regional Waste and Resource Recovery Implementation Plan within 7 days of a notice of approval of an amendment or variation to the Plan being published in the Government Gazette.

S. 50BG
substituted by
No. 20/2014
s. 19.

50BG Amendment of Regional Waste and Resource Recovery Implementation Plans

- (1) A Waste and Resource Recovery Group may prepare draft amendments to its Regional Waste and Resource Recovery Implementation Plan at any time, including any schedule of existing and required waste and resource recovery infrastructure within the Plan.
- (2) The Minister may at any time direct a Waste and Resource Recovery Group to prepare draft amendments to its Regional Waste and Resource Recovery Implementation Plan within a specified period of time.
- (3) The Minister may at any time make a variation to a Regional Waste and Resource Recovery Implementation Plan that is declaratory, machinery or administrative in nature.
- (4) Sections 50BC, 50BD and 50BE apply to an amendment of a Regional Waste and Resource Recovery Implementation Plan under subsections (1) and (2) as if the amendment were a draft Regional Waste and Resource Recovery Implementation Plan.
- (5) Sections 50BD(6) to (8) and 50BE apply to a variation of a Regional Waste and Resource Recovery Implementation Plan under subsection (3) as if the variation were a draft Regional Waste and Resource Recovery Implementation Plan.

S. 50BH
substituted by
No. 20/2014
s. 19.

50BH Consistency with Regional Waste and Resource Recovery Implementation Plans

- (1) A council must perform its waste management functions consistently with the Regional Waste and Resource Recovery Implementation Plan applying to the council's municipal district.

- (2) If a council disposes of waste in a waste and resource recovery region other than the waste and resource recovery region in which the council's municipal district is located, the disposal of the waste must be consistent with the Regional Waste and Resource Recovery Implementation Plan applying to the other waste and resource recovery region.
- (3) Any person involved in the generation, management or transport of waste within a waste and resource recovery region must not do anything in relation to the waste that is inconsistent with the relevant Regional Waste and Resource Recovery Implementation Plan while the waste is in that region.

Division 2AE—Other provisions for the State-Wide Waste and Resource Recovery Infrastructure Plan and Regional Waste and Resource Recovery Implementation Plans

Pt 9 Div. 2AE
(Heading and
ss 50C, 50CA)
inserted by
No. 20/2014
s. 19.

50C Authority may refuse applications for certain facilities if Plans not observed

New s. 50C
inserted by
No. 20/2014
s. 19.

- (1) The Authority may refuse to consider an application for a works approval or an application for the issue or amendment of a licence in relation to a waste management facility if—
 - (a) the operations of the facility could be inconsistent with the State-Wide Waste and Resource Recovery Infrastructure Plan or a relevant Regional Waste and Resource Recovery Implementation Plan; or
 - (b) the applicant is in breach of any relevant requirements of a schedule of existing and required waste and resource recovery infrastructure within a Regional Waste and Resource Recovery Implementation Plan.

- (2) Subject to subsection (3), the Authority must refuse to consider an application for a works approval in relation to a new landfill if the landfill is not provided for in the proposed sequence for the filling of available landfill sites in a relevant schedule of existing and required waste and resource recovery infrastructure within a Regional Waste and Resource Recovery Implementation Plan.
- (3) The Authority cannot refuse to issue a works approval under subsection (2) if the landfill is privately owned and will only receive wastes that consist of substances that were owned by the owner of the site before the substances became wastes.
- (4) The Authority must give any person whose application is refused under this section a written notice setting out the reason for the refusal.

S. 50CA
inserted by
No. 20/2014
s. 19.

50CA Guidelines for Plans

- (1) The Minister may make guidelines in relation to the making, amendment and integration of the State-Wide Waste and Resource Recovery Infrastructure Plan and the Regional Waste and Resource Recovery Implementation Plans.
- (2) Without limiting subsection (1), the guidelines may include requirements relating to content, accountability, transparency and consultation.

Environment Protection Act 1970
No. 8056 of 1970
Part IX—Resource efficiency

*	*	*	*	*	Pt 9 Div. 2A (Heading and ss 50E–50QD) inserted by No. 99/1994 s. 28, amended by Nos 65/1996 ss 7–11, 49/2000 s. 18, 44/2001 s. 3(Sch. item 37.2), 37/2002 ss 11(n), 18–26, 108/2004 s. 117(1)(Sch. 3 item 68.8), 65/2005 s. 23(3), 61/2006 s. 44, 20/2008 s. 3, 58/2010 s. 48, 20/2014 s. 7, repealed by No. 20/2014 s. 20.
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*	*	*	*	*	Pt 9 Div. 2B (Heading and ss 50R–50RE) inserted by No. 99/1994 s. 28, amended by Nos 65/1996 s. 12, 37/2002 s. 11(n)(s), 27–30, 65/2005 s. 23(3), repealed by No. 20/2014 s. 21.
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Division 3—Landfill levy

Pt 9 Div. 3
(Heading and
ss 50S–50Y)
inserted by
No. 53/1992
s. 4.

S. 50S
inserted by
No. 53/1992
s. 4,
substituted by
No. 65/1996
s. 13.

S. 50S(1)
substituted by
No. 37/2002
s. 32(1),
amended by
No. 61/2006
s. 27(1).

S. 50S(2)
substituted by
Nos 37/2002
s. 32(1),
61/2006
s. 27(2).

S. 50S(2A)
inserted by
No. 2/1999
s. 6,
substituted by
No. 37/2002
s. 32(1),
amended by
Nos 61/2006
s. 54(1),
20/2014
s. 8(1),
47/2020
s. 22(1).

50S Landfill levy—amount payable

(1) The holder of a licence in respect of a scheduled premises prescribed as a scheduled premises required to pay the landfill levy must pay to the Authority a landfill levy for each tonne of waste that is deposited on to land at the premises.

(2) The holder of a licence in respect of a scheduled premises which is—

(a) prescribed as a scheduled premises required to pay the landfill levy; and

(b) licensed for the discharge or deposit to land of wastes that are prescribed industrial waste—

must pay to the Authority a landfill levy for each tonne of waste that is deposited on to land at the premises.

(2A) Subject to subsections (2AAA) and (2AAAB), the amount of the levy payable under subsection (1) is the amount specified in Schedule D for the relevant premises, period and type of waste.

Environment Protection Act 1970
No. 8056 of 1970
Part IX—Resource efficiency

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|---|---|
| <p>(2AAA) In respect of the period on or after 1 July 2015 and before 1 July 2021, the amount of the levy payable under subsection (1) is the amount specified in fee units in Schedule DA for the relevant premises and type of waste.</p> | <p>S. 50S(2AAA) inserted by No. 20/2014 s. 8(2), amended by No. 47/2020 s. 22(2).</p> |
| <p>(2AAAB) On or after 1 July 2021, the amount of levy payable under subsection (1) is the amount specified in dollars in Schedule DB for the relevant premises and type of waste.</p> | <p>S. 50S(2AAAB) inserted by No. 47/2020 s. 22(3).</p> |
| <p>(2AA) Subject to subsection (2AAB), the amount of the levy payable under subsection (2) is the amount specified in Schedule E for the relevant category of prescribed industrial waste.</p> | <p>S. 50S(2AA) inserted by No. 61/2006 s. 54(2), amended by No. 47/2020 s. 22(4).</p> |
| <p>(2AAB) On or after 1 July 2021, the amount of the levy payable under subsection (2) is the amount specified in Schedule F for the relevant category of prescribed industrial waste.</p> | <p>S. 50S(2AAB) inserted by No. 47/2020 s. 22(5).</p> |
| <p>(3) The levy must be paid in accordance with section 50SB.</p> | |
| <p>* * * * *</p> | <p>S. 50S(4) repealed by No. 49/2000 s. 19.</p> |
| <p>* * * * *</p> | <p>S. 50S(5) repealed by No. 20/2014 s. 8(3).</p> |
| <p>* * * * *</p> | <p>S. 50S(6) inserted by No. 86/1998 s. 20(2), amended by No. 59/2003 s. 118(2), repealed by No. 74/2006 s. 25(2).</p> |

S. 50SA
inserted by
No. 65/1996
s. 13.

50SA Rebate for recycled waste

S. 50SA(1)
amended by
Nos 37/2002
s. 37(a),
61/2006 s. 28.

- (1) This section applies if waste is removed from a scheduled premises prescribed as a scheduled premises required to pay the landfill levy to enable it to be recycled, reprocessed, recovered or purified by an operation separate from that which produced it.
- (2) The holder of the licence in respect of the premises is entitled to a rebate for each tonne of that waste that is removed from the premises within 12 months of being deposited at the premises.
- (3) The amount of the rebate is the amount of the landfill levy that applies to a tonne of waste deposited at the premises at the time the waste is removed from the premises.

S. 50SAA
inserted by
No. 2/1999
s. 7.

50SAA Rebate for recycled prescribed industrial waste

S. 50SAA(2)
amended by
No. 37/2002
s. 33(1).

- (1) This section applies if prescribed industrial waste is removed from premises licensed to be used for the discharge or deposit to land of the waste to enable it to be recycled, reprocessed, recovered or purified by an operation separate from that which produced it.
- (2) The holder of the licence in respect of the premises is entitled to a rebate of any landfill levy paid under section 50S(2) for each tonne of that waste that is removed from the premises within 3 years after being deposited at the premises.
- (3) The amount of the rebate is the amount of the landfill levy that was paid in respect of a tonne of prescribed industrial waste at the time the waste was deposited at the premises.

50SAB Rebate for cover material

S. 50SAB
inserted by
No. 49/2000
s. 20.

(1) A person who is liable to pay a landfill levy under section 50S(1) is entitled to a rebate for each tonne of waste that is deposited on to land at the premises.

S. 50SAB(1)
amended by
No. 37/2002
s. 33(2).

(2) The amount of the rebate is—

S. 50SAB(2)
amended by
No. 37/2002
s. 33(3).

$$\text{Rebate} = \frac{15}{100} \times W \times \text{LR}$$

where—

W is the amount of waste (in tonnes) deposited on to land at the premises in the relevant period;

LR is the relevant amount specified in Schedule D for the deposit of a tonne of municipal waste at that premises in the relevant period.

50SB Payment of the levy

S. 50SB
inserted by
No. 65/1996
s. 13.

(1) The holder of a licence who is liable to pay a landfill levy under section 50S(1) or 50S(2) must calculate the amount of landfill levy that is payable in respect of waste deposited at the premises for each of the following quarters—

S. 50SB(1)
amended by
Nos 2/1999
s. 8(1)(a),
37/2002
s. 37(a),
61/2006 s. 29.

- (a) 1 July to 30 September;
- (b) 1 October to 31 December;
- (c) 1 January to 31 March.

S. 50SB(2)
amended by
No. 2/1999
s. 8(1)(b),
substituted by
No. 49/2000
s. 21(1).

- (2) In calculating an amount under subsection (1), the holder of the licence—
 - (a) must not take into account any rebate that he, she or it is entitled to under section 50SA or 50SAA; but
 - (b) must deduct the rebate that he, she or it is entitled to under section 50SAB.
- (3) The holder of the licence must pay to the Authority the amount of landfill levy calculated under subsection (1) for—
 - (a) the July–September quarter on or before 31 December;
 - (b) the October–December quarter on or before 31 March;
 - (c) the January–March quarter on or before 30 June.
- (4) The holder of the licence must ensure that any payment made under subsection (3) is accompanied by details of how the amount of the payment was calculated.
- (5) On or before 30 September each year, the holder of the licence must—
 - (a) calculate the amount of landfill levy that is payable in respect of waste deposited at the premises for the last financial year; and
 - (b) deduct from that amount—
 - (i) the instalment payments made under subsection (3); and
 - (ii) the amount of the rebates that the licence holder calculates he, she or it is entitled to under section 50SA or 50SAA in respect of the financial year; and

S. 50SB(5)
(b)(ii)
amended by
No. 2/1999
s. 8(1)(b).

(iii) the amount of the rebate that the licence holder calculates he, she or it is entitled to under section 50SAB in respect of the April–June quarter; and

S. 50SB(5)
(b)(iii)
inserted by
No. 49/2000
s. 21(2).

(c) if the result is a positive amount, pay that amount to the Authority.

50SC Refunds by the Authority

S. 50SC
inserted by
No. 65/1996
s. 13.

- (1) If the calculation required by section 50SB(5) in respect of a premises results in a negative amount, the Authority must refund the amount the holder of the licence has overpaid in respect of the premises within 30 days of it receiving the statement required by section 50W.
- (2) Subsection (1) does not apply if the Authority serves a notice under section 50X(3)(a) in respect of any estimate used in the calculation.
- (3) The Authority is not liable to pay any interest in respect of any refund that it is required to make under this Division.

50T Premises that may not be levied

S. 50T
inserted by
No. 53/1992
s. 4.

* * * * *

S. 50T(1)
repealed by
No. 65/1996
s. 14(1).

- (2) The following premises are not subject to the levy payable under section 50S—
 - (a) any privately owned landfill that only receives wastes that consist of substances that were owned by the owner of the landfill before they became wastes;

S. 50T(2)
amended by
No. 2/1999
s. 8(2).

- (b) any landfill that only receives the municipal wastes of an area with a population of less than 5000 people and that is owned by a municipal council.

S. 50U
inserted by
No. 53/1992
s. 4,
substituted by
No. 65/1996
s. 15.

50U Calculation of estimates of weight

S. 50U(1)
amended by
No. 2/1999
s. 8(3).

- (1) If the holder of a licence is not able to weigh the waste that is deposited at the premises in any relevant period, he, she or it may estimate the weight of the waste.
- (2) The holder of the licence may use different methods for estimates relating to—
- (a) the weight of the waste that was deposited at the premises in the quarters referred to in section 50SB(1); and
- (b) the weight of the waste that was deposited at the premises in a financial year.
- (3) The holder of the licence may only make an estimate using a method approved by the Authority.

S. 50V
inserted by
No. 53/1992
s. 4,
substituted by
No. 65/1996
s. 15.

50V Requirement to keep appropriate records

S. 50V(1)
amended by
No. 49/2000
s. 3(15)(Sch.
item (22)).

- (1) A person to whom section 50S applies must keep records sufficient to enable him, her or it to calculate—
- (a) the amount of landfill levy that he, she or it is required to pay; and

(b) the amount of any rebate that he, she or it is entitled to under section 50SA or 50SAA.

S. 50V(1)(b)
amended by
No. 2/1999
s. 9.

Penalty: 600 penalty units.

(2) The Governor in Council may, on the recommendation of the Authority, specify by Order in Council published in the Government Gazette categories of waste for the purposes of this section.

(3) A person to whom section 50S applies must keep records of the categories of waste specified by an Order in Council made under this section.

50W Requirement to provide Authority with information concerning levy

S. 50W
inserted by
No. 53/1992
s. 4.

(1) On or before 1 September each year, each person to whom section 50S applies must give to the Authority, in a form approved by the Authority, a written statement containing—

S. 50W(1)
amended by
No. 49/2000
s. 3(15)(Sch.
item (23)).

(a) details of the amount of waste (in tonnes) that was deposited (or that he, she or it estimates was deposited) at the premises in the last financial year; and

S. 50W(1)(a)
substituted by
No. 65/1996
s. 14(2).

(b) details of the amount of waste (in tonnes) for which he, she or it is entitled to a rebate under section 50SA or 50SAA; and

S. 50W(1)(b)
substituted by
No. 65/1996
s. 14(2),
amended by
No. 2/1999
s. 9.

(c) details of any estimates made in respect of the last financial year for the purposes of this Division that have not already been given to the Authority; and

S. 50W(1)(c)
substituted by
No. 65/1996
s. 14(2).

S. 50W(1)(d)
substituted by
No. 65/1996
s. 14(2).

(d) any other information the Authority requires to enable it to determine the amount of landfill levy the person is liable for (or the refund the person is entitled to) under this Division.

Penalty: 600 penalty units.

S. 50W(2)
amended by
No. 49/2000
s. 3(6).

(2) A person must not include any false or misleading information in a written statement made under this section.

S. 50W(3)
inserted by
No. 49/2000
s. 3(7).

(3) A person who contravenes subsection (2) is guilty of an indictable offence.

Penalty: 2400 penalty units or imprisonment for 2 years or both.

S. 50WA
inserted by
No. 65/1996
s. 16.

50WA Information about waste categories must be given

A person who is required to give the Authority a statement under section 50W must also ensure that the statement contains details of the categories of waste (as specified by an Order in Council made under section 50V) that were deposited at the premises in the last financial year.

S. 50X
inserted by
No. 53/1992
s. 4,
substituted by
No. 65/1996
s. 17.

50X Authority may increase low estimates

- (1) This section applies if the Authority is of the opinion that an estimate on which a levy instalment or other payment required by this Division is based is too low.
- (2) The Authority may substitute its own estimate for the estimate submitted to it.
- (3) Before doing this, the Authority must—
 - (a) notify the holder of the licence in writing that it is of the opinion that the estimate is too low and of the basis on which it is proposing to make its own estimate; and
 - (b) consider any response made by the holder within 14 days of notifying the holder.

- (4) If the Authority still believes an estimate is too low after it has complied with subsection (3), it may give the holder of the licence a notice setting out its estimate and the additional amount of landfill levy (if any) the holder is liable for as a result of the revision of the estimate.
- (5) The holder of the licence must pay any additional amount set out in the notice within 30 days of being given the notice, unless she, he or it applies to have the estimate decreased under section 50XA.
- (6) The Authority may only exercise the powers given to it by this section if it gives the notice required by subsection (3)(a) within 15 months of receiving written notice of the estimate made by the holder of the licence.
- (7) The estimate set out in a notice under subsection (4) may differ from any estimate set out in a notice under subsection (3)(a), but it must be calculated either on the basis set out in the notice under subsection (3)(a) or on a basis that was put forward by the holder of the licence in response to that notice.
- (8) If the effect of a reduction in an estimate is to reduce (but not eliminate) the amount of the refund the Authority must pay to a person, the Authority must pay the refund to the person within 30 days of the determination of the final estimate under this Division.

50XA Tribunal may review revised estimates

S. 50XA
inserted by
No. 65/1996
s. 17.

- (1) The holder of a licence may apply to the Tribunal for review of the estimate set out in a notice under section 50X(4) given to the holder.

S. 50XA(1)
substituted by
No. 52/1998
s. 311(Sch. 1
item 27.19).

S. 50XA(3)
amended by
No. 52/1998
s. 311(Sch. 1
item 27.20).

- (2) The holder of a licence must lodge the application within 30 days of receiving the notice.
- (3) The Tribunal may decrease an estimate of the Authority if it is of the opinion that the estimate is too high.
- (4) If the Tribunal decreases an estimate, the Authority must refund any money that it has been overpaid under this section within 30 days of receiving notice of the Tribunal's decision.
- (5) If an application to the Tribunal is dismissed, struck out or abandoned, the holder of the licence must pay any additional amount sought in the notice under section 50X(4) within 30 days of the dismissal, striking out or abandonment.

S. 50XB
inserted by
No. 65/1996
s. 17,
amended by
No. 61/2006
s. 30.

50XB Rights and powers of the Authority if levy not paid

- (1) If any payment required by this Division is not made when it is due, the Authority may suspend the licence or part of the licence as it relates to a scheduled premises in respect of which the payment is due until the payment (and any accrued interest) is made.
- (2) Interest is to accrue on the amount of the required payment from the date it falls due at the annual rate fixed from time to time under section 2 of the **Penalty Interest Rates Act 1983**.
- (3) The Authority may recover any amount due to it under this Division in the Magistrates' Court as a debt due to it at any time after the amount falls due.

- (4) The Court may make an order for payment under this section even though the amount of the order exceeds the upper monetary limit of the Court's civil jurisdiction.

50XC Agreement to offset refund owing

S. 50XC
inserted by
No. 65/1996
s. 17.

- (1) This section applies if a person is entitled to a refund from the Authority.
- (2) The person and the Authority may agree that the amount of the refund is to be deducted from any future payment that the person makes to the Authority, instead of being paid as otherwise required by this Act.

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S. 50XD
inserted by
No. 2/1999
s. 10,
amended by
No. 37/2002
s. 37(a),
repealed by
No. 37/2002
s. 34.

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S. 50XE
inserted by
No. 2/1999
s. 10,
repealed by
No. 37/2002
s. 34.

* * * * *

S. 50Y
inserted by
No. 53/1992
s. 4,
repealed by
No. 65/1996
s. 14(3).

Pt 9 Div. 4
(Heading and
ss 51–51G)
inserted by
No. 53/1992
s. 4.

Division 4—Industry waste reduction agreements

New s. 51
inserted by
No. 53/1992
s. 4.

51 Application of this Division

S. 51(1)
amended by
No. 65/1996
s. 18(a).

(1) This Division applies to any person or industry that creates, manages or disposes of or first sells materials or items in Victoria that could result in wastes being deposited in Victoria.

S. 51(2)
amended by
No. 44/2001
s. 3(Sch.
item 37.3).

(2) For the purposes of this Division, if a person is a body corporate, a reference to that person includes a reference to any subsidiary of that person within the meaning of the Corporations Act.

(3) In this Division a reference to an industry may be read as a reference to a sector of an industry.

S. 51A
inserted by
No. 53/1992
s. 4.

51A Industry waste reduction agreements

(1) The Authority may enter into an industry waste reduction agreement with any person or with any association representing an industry.

S. 51A(2)
amended by
No. 65/1996
s. 18(b)(i).

(2) Such an agreement must—
(a) identify the solid wastes that are likely to arise as a result of the activities of the person or industry; and

S. 51A(2)(b)
amended by
No. 2/1999
s. 11(a).

(b) set out what steps the person or industry will take to do the following—

S. 51A(2)(b)(i)
amended by
No. 2/1999
s. 11(b).

(i) to reduce those wastes or to keep those wastes to a minimum; and

- (ii) to recover, recycle or re-use those wastes; and S. 51A(2)(b)(ii)
amended by
No. 2/1999
s. 11(b).
- (iii) to reduce litter; and S. 51A(2)(b)(iii)
amended by
No. 2/1999
s. 11(b).
- (iv) to safely dispose of the wastes that cannot be recovered, recycled or re-used; and
- (c) specify targets to be achieved by the person or industry with respect to those steps; and
- (d) provide an economic assessment of the market for the wastes that can be recovered (if applicable); and
- (e) set out the steps that the person or association proposes to take to ensure a stable and viable collection system for those wastes in the light of the assessment made under paragraph (d) (if applicable); and
- (f) provide for the person or association to give the Authority a report every 6 months on the progress made with respect to the implementation of the agreement; and S. 51A(2)(f)
amended by
No. 65/1996
s. 18(b)(ii).
- (g) specify the period or periods for which it is to be in force.
- (3) The agreement may provide for any other incidental matter.

51B Criteria to be satisfied before Authority enters into an agreement

The Authority may enter into an industry waste reduction agreement with any person, or with any association representing an industry, to whom this Division applies who has submitted a draft industry waste reduction agreement that—

S. 51B
inserted by
No. 53/1992
s. 4,
amended by
No. 65/1996
s. 18(c),
substituted by
No. 2/1999
s. 12.

- (a) deals with all the matters listed in section 51A(2); and
- (b) the Authority is satisfied is consistent with any relevant policy and regulations; and
- (c) is in a form approved by the Authority.

S. 51C
inserted by
No. 53/1992
s. 4.

51C Monitoring by the Authority

- (1) The Authority must monitor industry waste reduction agreements.
- (2) The monitoring must take into account the environmental, economic, commercial and social issues involved in the agreement and must seek, and take into account, the views of the public generally, local government and industry.

S. 51C(3)
repealed by
No. 65/1996
s. 18(d).

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S. 51D
inserted by
No. 53/1992
s. 4.

51D Amendments to agreements

The Authority must agree to amend an industry waste reduction agreement at any time if—

- (a) it is of the opinion that the amended agreement would satisfy section 51B were it a new agreement; and

S. 51D(b)
repealed by
No. 65/1996
s. 18(d).

* * * * *

- (c) the amendment does not deal with a matter that is subject to a notice under section 51F.

51E Authority may require a person to enter agreement

S. 51E
inserted by
No. 53/1992
s. 4.

- (1) The Authority may require any person or industry to whom this Division applies and who is not a party to an industry waste reduction agreement to submit to the Authority a draft industry waste reduction agreement that—
 - (a) deals with all the matters listed in section 51A(2); and
 - (b) is consistent with any relevant policy and regulations; and
 - (c) is in a form approved by the Authority.
- (2) Notice of the requirement must be in writing and must specify the date by which the draft agreement must be submitted.
- (3) The date specified must be at least 6 months after the date of the notice.
- (4) The Authority may withdraw the notice at any time.
- (5) A person who fails to comply with a requirement under this section is guilty of an offence.
Penalty: 600 penalty units.

S. 51E(1)
substituted by
No. 2/1999
s. 13.

S. 51E(5)
amended by
No. 49/2000
s. 3(15)(Sch.
item (24)).

51F Notice of breach of agreement

- (1) If at any time the Authority, acting reasonably, believes a person or an industry is in breach of an industry waste reduction agreement, the Authority may give the person, or the association representing the industry, a notice of breach.
- (2) The notice must—
 - (a) be in writing; and
 - (b) specify the breach; and

S. 51F
inserted by
No. 53/1992
s. 4.

(c) specify the date by which the Authority requires the breach to be rectified.

(3) The date specified must be at least 3 months after the date of the notice.

(4) A person to whom a notice is given under this section must rectify the breach in accordance with the requirement in the notice.

Penalty: 600 penalty units.

S. 51F(4)
amended by
No. 49/2000
s. 3(15)(Sch.
item (25)).

S. 51G
inserted by
No. 53/1992
s. 4.

51G Reports to Parliament

(1) The Authority may, from time to time, submit to the Minister—

(a) a report on industry waste reduction agreements;

(b) a report identifying any person or industry to whom this Division applies and who is not a party to an industry waste reduction agreement;

(c) a report identifying any person or industry who has failed to submit a draft industry waste reduction agreement under section 51E;

(d) a report identifying any person or industry who has failed to provide a satisfactory explanation for any variation of performance from that set out in their industry waste reduction agreement.

(2) Amongst other matters, any such report must—

(a) include an economic assessment of the market for the wastes that can be recovered by the person or industry (if relevant); and

(b) take into account relevant environmental, economic, commercial and social issues.

- (3) The Minister must cause any such report to be laid before each House of Parliament before the end of the seventh sitting day of that House after the report is received by the Minister.
- (4) The Authority must not name any person, or any association representing an industry, in a report under subsection (1)(b), (c) or (d) unless, at least 28 days before the report is submitted to the Minister, it has given that person or association a notice in writing advising that it intends to take that action.
- (5) The notice must also specify the reasons why the Authority intends to name the person or association.

Division 5—Amendment of Schedule C

Pt 9 Div. 5
(Heading and
s. 51R)
inserted by
No. 53/1992
s. 4,
amended by
Nos 20/1994
s. 17(c),
99/1994
s. 30(3)(4),
substituted by
No. 65/1996
s. 19.

51R Governor in Council may amend Schedule C

The Governor in Council, on the recommendation of the Authority, may by Order published in the Government Gazette—

- (a) add the name of a municipal district to Schedule C;
- (b) delete the name of a municipal district from Schedule C;
- (c) amend the name of a municipal district in Schedule C.

S. 51R
substituted by
No. 65/1996
s. 19.

Environment Protection Act 1970
No. 8056 of 1970
Part IX—Resource efficiency

Pt 9 Div. 6
(Heading and
s. 52)
inserted by
No. 53/1992
s. 4,
repealed by
No. 65/1996
s. 24(2)(a).

* * * * *

Pt 9 Div. 7
(Heading and
ss 52A–52E)
inserted by
No. 53/1992
s. 4,
amended by
Nos 20/1994
s. 17(d),
99/1994
s. 30(5)(6),
65/1996 ss 20,
21, 24(2)(b),
2/1999
s. 14(1)(a)(b),
repealed by
No. 37/2002
s. 35(1)(a).

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Part IXA—Transport of prescribed waste

Pt 9A
(Heading and
ss 53A, 53B)
inserted by
No. 10092
s. 19 (as
amended by
No. 10160
s. 9),
substituted as
Pt 9A
(Heading and
ss 53A–53I)
by No. 10261
s. 23.

53 Exemptions

New s. 53
inserted by
No. 2/1999
s. 16.

Without limiting the powers of the Authority under this Act, the Authority may exempt a person from the requirement to hold a permit under this Part if the Authority is satisfied that the person holds a valid authorisation to transport prescribed waste under the law of another State or Territory.

53A Permit required

S. 53A
substituted by
No. 10261
s. 23.

(1) A person must not commence or conduct any business—

S. 53A(1)
amended by
No. 2/1999
s. 15(a).

(a) the purpose of which is to transport prescribed waste; or

(b) the operation of which includes the transport of prescribed waste—

on a highway unless there is in force a permit to transport prescribed waste.

S. 53A(2)
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 37.8),
2/1999
s. 15(b)(i)(ii).

(2) Any public authority including any municipal council and any regional waste management group established under Part IX which performs as one of its functions the transport of prescribed industrial waste must obtain a permit to transport prescribed industrial waste.

S. 53A(3)
amended by
Nos 86/1990
s. 5(a)(b),
49/2000
s. 3(15)(Sch.
item (26)
(a)–(c)),
68/2009
s. 97(Sch.
item 50.18).

(3) Any person who or public authority which contravenes this section is guilty of an indictable offence against this Act and liable to a penalty of not more than 2400 penalty units and in the case of a continuing offence to a daily penalty of not more than 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the accused of notice of contravention of this section.

S. 53B
substituted by
No. 10261
s. 23,
amended by
Nos 20/1988
s. 9(3),
87/1989
ss 14(a), 39,
substituted by
No. 2/1999
s. 17 (as
amended by
No. 49/2000
s. 8(2)(3)).

53B Obligation of consignor of waste

(1) A person must not cause or permit any prescribed waste or prescribed industrial waste to be transported on a highway from any premises or place owned or occupied by that person unless the vehicle used to transport the waste—

(a) is authorised by a permit to transport prescribed industrial waste; or

(b) the vehicle is exempted by the regulations from the requirement to be authorised by a permit to transport that waste.

(1A) A person who contravenes subsection (1) is guilty of an indictable offence.

Penalty: 2400 penalty units.

(2) It is a defence to a charge brought under subsection (1) if the person charged establishes that the person used all due diligence to prevent the contravention.

53C Obligation to record and notify

- (1) A person who does all or any of the following—
- (a) causes or permits prescribed industrial waste to be transported from any premises or place occupied by that person; or
 - (b) transports on a highway any prescribed industrial waste; or
 - (c) receives prescribed industrial waste at any premises or place—

must comply with any of the regulations applying to that person which require the identification of the waste, the making and keeping of records about the waste or the movement of the waste, the notification and reporting of information about the waste and the movement of the waste.

- (2) A person who contravenes subsection (1) is guilty of an indictable offence.

Penalty: 2400 penalty units.

S. 53C
inserted by
No. 10261
s. 23,
amended by
No. 87/1989
s. 14(b)(c),
substituted by
No. 2/1999
s. 17 (as
amended by
No. 49/2000
s. 8(2)(4) (ILA
s. 39B(1)).

53D Obligation of producers of waste

- (1) A producer of prescribed industrial waste must take reasonable steps to ensure that prescribed industrial waste that is transported from any premises or place occupied by that producer is consigned to and received by—
- (a) an occupier of scheduled premises licensed to reprocess, treat, store, contain, dispose of or handle that prescribed industrial waste; or

S. 53D
inserted by
No. 10261
s. 23,
substituted by
No. 2/1999
s. 17 (as
amended by
No. 49/2000
s. 8(2)(5) (ILA
s. 39B(1)).

S. 53D(1)
substituted by
No. 61/2006
s. 31.

(b) an occupier of premises exempted by the Authority from requiring a licence to reprocess, treat, store, contain, dispose of or handle that prescribed industrial waste at the premises.

(2) A person who contravenes subsection (1) is guilty of an indictable offence.

Penalty: 2400 penalty units.

S. 53E
inserted by
No. 10261
s. 23,
substituted by
No. 2/1999
s. 17(as
amended by
No. 49/2000
s. 8(6)(a)(b)).

53E Contravention of permit condition

A permit holder must not contravene a condition of a permit that is imposed by the Authority and specified in the permit or that is prescribed by the regulations.

Penalty: 600 penalty units and a daily penalty of not more than 240 penalty units for each day during which the offence continues after conviction or after service by the Authority on the permit holder of a notice of contravention whichever occurs first.

S. 53F
inserted by
No. 10261
s. 23,
amended by
No. 87/1989
s. 19(e),
substituted by
No. 2/1999
s. 17.

53F Issue of transport permits

(1) The Authority may, in accordance with the regulations, issue, renew, transfer, suspend or cancel a permit to transport prescribed waste or prescribed industrial waste.

(1A) The Authority may issue or renew a permit to transport prescribed waste or prescribed industrial waste for up to 5 years.

(2) A permit may only be applied for, issued, refused, renewed, transferred, suspended or cancelled in accordance with the regulations.

S. 53F(1A)
inserted by
No. 20/2014
s. 22.

- (3) The Authority may issue a permit to a person referred to in section 53A(1) or a public authority or regional waste management group referred to in section 53A(2) in respect of each vehicle used or to be used to transport the waste or in respect of all vehicles used or to be used by that person or authority to transport the waste.
- (4) The Authority may issue a permit subject to any conditions specified by the Authority or prescribed by the regulations.
- (5) Without limiting any other power of the Authority, the Authority may refuse to issue, renew or transfer a permit unless the applicant provides the Authority with a financial assurance satisfactory to the Authority in accordance with section 67B.

53G Fees

S. 53G
inserted by
No. 10261
s. 23,
substituted by
No. 2/1999
s. 17.

- (1) The Authority may charge the fees prescribed by the regulations for applications for the issue, transfer and variation of permits and for the renewal of permits.
- (1A) A fee for the issue or renewal of a permit to transport prescribed waste or prescribed industrial waste must be paid—
 - (a) in advance as a lump sum constituted of the fees for each year of the permit; or
 - (b) as an annual fee for each year of the permit.
- (2) An application fee must not exceed 200 fee units.
- (3) An annual fee for a permit must not exceed 200 fee units in respect of each vehicle to which the permit applies.

S. 53G(1)
amended by
No. 20/2014
s. 23(1).

S. 53G(1A)
inserted by
No. 20/2014
s. 23(2).

Environment Protection Act 1970
No. 8056 of 1970
Part IXA—Transport of prescribed waste

S. 53H
inserted by
No. 10261
s. 23,
repealed by
No. 2/1999
s. 17.

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S. 53I
inserted by
No. 10261
s. 23,
amended by
No. 86/1990
s. 5(a),
repealed by
No. 2/1999
s. 17.

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Part IXB—Septic tank systems

Pt 9B
(Heading and
ss 53J–53O)
inserted by
No. 48/1988
s. 40(1) (as
amended by
No. 87/1989
s. 65(a)).

53J Definitions

(1) In this Part—

municipal council means council of a
municipality;

municipality includes municipal district within the
meaning of the **Local Government Act
2020** and also the city of Melbourne and the
city of Geelong;

municipal fund includes, in the case of
Melbourne and Geelong, the town fund;

septic tank system means a system for the
bacterial, biological, chemical or physical
treatment of sewage, and includes all tanks,
beds, sewers, drains, pipes, fittings,
appliances and land used in connection with
the system;

sewage means any waste containing human
excreta or domestic waste water.

(2) This Part does not apply to any septic tank system
designed to discharge more than 5000 litres of
sewage a day.

S. 53J
inserted by
No. 48/1988
s. 40(1) (as
amended by
No. 87/1989
s. 65(a)).

S. 53J(1)
def. of
municipality
amended by
No. 9/2020
s. 390(Sch. 1
item 34.2).

S. 53K
inserted by
No. 48/1988
s. 40(1) (as
amended by
No. 87/1989
s. 65(a)).

53K Declaration of area by municipal council

A municipal council—

- (a) may declare; or
- (b) if required by the Authority, must declare—

that, within any specified part of the municipality, all septic tank systems proposed to be installed for the purpose of treating waterborne wastes, where discharge of effluent from premises is proposed, must be of a type that treats all sewage.

S. 53L
inserted by
No. 48/1988
s. 40(1) (as
amended by
No. 87/1989
s. 65(a)),
amended by
No. 49/2000
ss 3(15)(Sch.
item (27)),
29(b).

53L Permit required

A person must not construct, install or alter a septic tank system unless the person holds a permit issued under this Part.

Penalty: 300 penalty units.

S. 53M
inserted by
No. 48/1988
s. 40(1) (as
amended by
No. 87/1989
s. 65(a)).

53M Application for a permit

- (1) A person may apply to a municipal council for a permit under this Part.
- (2) An application for a permit must be—
 - (a) made in accordance with a form and in a manner approved by the municipal council; and
 - (b) forwarded with the fee which the municipal council by resolution determines, which fee must not exceed the maximum fee (if any) prescribed in the regulations; and
 - (c) accompanied by—
 - (i) plans, specifications and particulars of the proposed septic tank system; and
 - (ii) a full description of the proposed means for treating the effluent.

- (3) A municipal council may require an applicant to supply any further information in connection with the application which the municipal council considers necessary.
- (4) The municipal council is not to deal with an application which does not comply with subsections (2) and (3) and must advise the applicant accordingly.
- (5) Unless subsection (4) applies, the municipal council must—
- (a) approve the plans and specifications and the means for the treatment and disposal of the effluent and issue a permit; or
 - (b) issue a permit subject to any modifications or conditions that the municipal council considers appropriate; or
 - (c) refuse to issue a permit—
within the period of 42 days after receiving—
 - (d) the application for a permit; or
 - (e) the further information (if any) required under subsection (3)—
whichever is the later.
- (6) The municipal council may refuse to issue a permit if the municipal council considers that—
- (a) the site of the proposed septic tank system is unsuitable; or
 - (b) the area available for the treatment or disposal of the effluent is not sufficient.

- (7) The municipal council must refuse to issue a permit if the proposed septic tank system—
- (a) is not of a type approved by the Authority for the purposes of this Part; or
 - (b) is contrary to any State environment protection policy or waste management policy; or
 - (c) does not treat all sewage and is located in a specified part of the municipality declared under section 53K.
- (8) A municipal council may delegate to one or more of its officers any of its powers under this section other than this power of delegation.
- (9) The refusal by an officer of a municipal council to issue a permit is of no effect until it is ratified by the municipal council.

S. 53M(7)(b)
amended by
No. 37/2002
s. 11(s).

53MA Compliance with permit

A person must comply with a permit and any conditions to which it is subject.

Penalty: 120 penalty units.

S. 53MA
inserted by
No. 86/1990
s. 10(1),
amended by
No. 49/2000
s. 3(15)(Sch.
item (28)).

53MB Approval of septic tank system

A septic tank system must not be used until the municipal council has inspected the septic tank system and issued a certificate approving its use.

Penalty: 120 penalty units.

S. 53MB
inserted by
No. 86/1990
s. 10(1),
amended by
No. 49/2000
s. 3(15)(Sch.
item (29)).

53N Maintenance of septic tank systems

An occupier of premises on which a septic tank is located must maintain it in accordance with the requirements specified in the permit issued by the municipal council for that septic tank system.

Penalty: 10 penalty units.

S. 53N
inserted by
No. 48/1988
s. 40(1) (as
amended by
No. 87/1989
s. 65(a)).

53O Annual return

- (1) The municipal council must, in respect of each financial year, lodge with the Authority an annual return in the month of July each year containing the following particulars—
 - (a) the number of permits issued for septic tank systems;
 - (b) the number of septic tank systems disconnected;
 - (c) the number of septic tank systems inspected;
 - (d) the number of septic tank systems which have been in use within the municipality during the financial year.
- (2) A municipal council is exempted from complying with subsection (1) if during the financial year—
 - (a) the council has not issued any permits for septic tank systems; and
 - (b) there have been no septic tank systems disconnected, inspected or in use in the municipality.

S. 53O
inserted by
No. 48/1988
s. 40(1) (as
amended by
No. 87/1989
s. 65(a)).

Pt 9C
(Heading and
ss 53P, 53Q)
inserted by
No. 49/2000
s. 22.

Part IXC—Regulation of waste emitting products

S. 53P
inserted by
No. 49/2000
s. 22.

53P Regulations concerning products that may damage the environment

- (1) The Governor in Council, on the recommendation of the Authority, may make regulations for or with respect to—
 - (a) requiring appliances, products or things that are capable of emitting waste to be labelled to indicate whether they comply with a specified standard of environmental performance;
 - (b) prohibiting the supply of any appliance, product or thing—
 - (i) that does not meet a specified standard of environmental performance, or that emits waste in excess of a specified amount or concentration; or
 - (ii) that is not labelled in accordance with a regulation made under paragraph (a);
 - (c) regulating the installation of any appliance, product or thing that is capable of emitting waste.
- (2) Section 71 applies to regulations made under this section.

53Q Offence to fail to comply with regulations

A person who supplies any appliance, product or thing contrary to any regulation made under section 53P is guilty of an indictable offence.

Penalty: 2400 penalty units, plus in the case of a continuing offence, 1200 penalty units for each day the offence continues after conviction or after service by the Authority on the accused of notice of contravention of this section (whichever is the earlier).

S. 53Q
inserted by
No. 49/2000
s. 22,
amended by
No. 68/2009
s. 97(Sch.
item 50.19).

Part IXD—Environmental audits

Pt 9D
(Heading and
ss 53R–53ZE)
inserted by
No. 7/2001
s. 12.

53R Purpose of Part

S. 53R
inserted by
No. 7/2001
s. 12.

The purpose of this Part is to provide for—

- (a) the appointment of environmental auditors;
and
- (b) a system of environmental audit of—
 - (i) the condition of a segment of the environment; and
 - (ii) the risk of any possible harm or detriment to a segment of the environment caused by any industrial process or activity, waste, substance or noise—

for use in the planning, approving, regulating, managing or conducting of activities and in the protection of the environment.

53S Appointment of environmental auditor

S. 53S
inserted by
No. 7/2001
s. 12.

- (1) The Authority may appoint any person to be an environmental auditor for the purposes of this Act.
- (2) The Authority may—
 - (a) suspend or revoke an appointment; or
 - (b) impose any conditions to an appointment.

S. 53S(2A)
inserted by
No. 63/2006
s. 59(1).

- (2A) The Authority in appointing an environmental auditor, or in suspending or revoking, or imposing conditions on, such an appointment, must have regard to any relevant guidelines issued under subsection (6).

- (3) The Authority must issue to every environmental auditor an authority in writing bearing a signed photograph of the auditor.
- (4) An environmental auditor must produce his or her authority in writing if requested to do so.
- (5) The function of an environmental auditor is—
 - (a) to conduct environmental audits; and
 - (b) to prepare environmental audit reports; and
 - (c) if requested, to issue certificates of environmental audit or statements of environmental audit; and
 - (d) any function conferred on an environmental auditor under this or any other Act.
- (6) An environmental auditor must have regard to any guidelines issued by the Authority for the purposes of this Act in carrying out his or her functions under this or any other Act.

S. 53S(5)(c)
amended by
No. 63/2006
s. 59(2)(a).

S. 53S(5)(d)
inserted by
No. 63/2006
s. 59(2)(b).

S. 53S(6)
amended by
No. 63/2006
s. 59(3).

53T Fees paid by an environmental auditor

S. 53T
inserted by
No. 7/2001
s. 12.

- (1) Subject to subsection (2), a person may not be appointed as an environmental auditor unless the person has paid an appointment fee of 170 fee units to the Authority.
- (2) The Authority may exempt a person from the payment of the fee under subsection (1).
- (3) An environmental auditor must pay the fee prescribed in respect of an environmental audit within 7 days after completing an audit.

53U Engagement of an environmental auditor

S. 53U
inserted by
No. 7/2001
s. 12.

A person may engage an environmental auditor to conduct an environmental audit in accordance with this Part.

S. 53V
inserted by
No. 7/2001
s. 12.

53V Environmental audit report on risk caused by industrial process etc.

An environmental audit report in relation to the risk of any possible harm or detriment to a segment of the environment caused by any industrial process or activity, waste, substance or noise must—

- (a) specify the industrial process or activity, waste, substance or noise in respect of which the environmental audit was conducted; and
- (b) state the name of the person who has engaged the environmental auditor to conduct the environmental audit; and
- (c) be signed by the environmental auditor; and
- (d) specify the results of the environmental audit.

S. 53W
inserted by
No. 7/2001
s. 12.

53W Environmental audit of condition of segment of environment

- (1) If an environmental auditor is engaged to conduct an environmental audit of the condition of a segment of the environment, he or she must prepare an environmental audit report before issuing a certificate of environmental audit or a statement of environmental audit.

Penalty: 300 penalty units.

- (2) A certificate of environmental audit or a statement of environmental audit is invalid if it was issued before the completion of an environmental audit report.

53X Environmental audit report on condition of segment of the environment

S. 53X
inserted by
No. 7/2001
s. 12.

An environmental audit report in relation to the condition of a segment of the environment must—

- (a) specify the segment of the environment in respect of which the environmental audit was conducted; and
- (b) state the name of the person who has engaged the environmental auditor to conduct the environmental audit; and
- (c) be signed by the environmental auditor; and
- (d) include—
 - (i) an evaluation of the environmental quality of the relevant segment of the environment; and
 - (ii) an assessment of whether any clean up is required to that segment of the environment; and
 - (iii) if any clean up is necessary, any recommendations relating to the carrying out of the clean up.

53Y Certificate of environmental audit

S. 53Y
inserted by
No. 7/2001
s. 12.

- (1) In determining whether or not to issue a certificate of environmental audit, an environmental auditor must have regard to—
 - (a) the beneficial uses that may be made of the relevant segment of the environment; and
 - (b) any relevant State environment protection policy or waste management policy.

S. 53Y(1)(b)
amended by
No. 37/2002
s. 11(n).

- (2) If an environmental auditor is of the opinion that the condition of the relevant segment of the environment is or is potentially detrimental to any beneficial use of that segment, the environmental auditor must refuse to issue a certificate of environmental audit.

S. 53Z
inserted by
No. 7/2001
s. 12.

53Z Statement of environmental audit

- (1) If an environmental auditor determines not to issue a certificate of environmental audit, he or she must issue a statement of environmental audit.
- (2) A statement of environmental audit must specify—
- (a) the reasons why the environmental auditor determined not to issue a certificate of environmental audit; and
 - (b) the beneficial uses of the segment of the environment that are protected; and
 - (c) the terms and conditions that need to be complied with before a certificate of environmental audit may be issued.

S. 53ZA
inserted by
No. 7/2001
s. 12.

53ZA Incorrect certificate or statement of environmental audit

- (1) If an environmental auditor is of the opinion that he or she has issued a certificate or statement of environmental audit that is incorrect in a material particular, the environmental auditor may withdraw the certificate or statement and—
- (a) conduct another environmental audit report and issue a new certificate or statement; or
 - (b) issue a new certificate or statement.

- (2) An environmental auditor may amend any certificate or statement of environmental audit to correct any—
 - (a) clerical mistake or unintentional error or omission;
 - (b) figure or figures that have been miscalculated;
 - (c) misdescription of any person, thing or property.
- (3) If the environmental auditor withdraws a certificate or statement of environmental audit under this section, the auditor must notify the Authority and the relevant responsible authority within the meaning of the **Planning and Environment Act 1987** of the withdrawal within 7 days after the withdrawal.
- (4) If the environmental auditor has amended a certificate or statement of environmental audit or has issued a new certificate or statement, the auditor must send to the Authority and to the relevant responsible authority within the meaning of the **Planning and Environment Act 1987** a copy of the certificate or statement within 7 days after amending or issuing it.
- (5) If the environmental auditor is for any reason unable to perform the functions and duties of his or her appointment, the Authority may withdraw an incorrect certificate or statement of environmental audit.
- (6) If the Authority withdraws an incorrect certificate or statement of environmental audit, the Authority must notify the relevant responsible authority within the meaning of the **Planning and Environment Act 1987** of the withdrawal within 7 days after the withdrawal.

S. 53ZB
inserted by
No. 7/2001
s. 12.

53ZB Notification

- (1) If an environmental auditor is engaged to issue a certificate of environmental audit, the environmental auditor must within 7 days after receiving the request send to the Authority a statement in writing specifying—
- (a) the name of the person who has engaged the environmental auditor; and
 - (b) the location of the relevant segment of the environment in respect of which the request has been made; and
 - (c) the proposed completion date of the environmental audit.

Penalty: 300 penalty units.

- (2) An environmental auditor must within 7 days after completing an environmental audit report send to the Authority and the relevant planning authority and responsible authority within the meaning of the **Planning and Environment Act 1987**—
- (a) a copy of the environmental audit report; and
 - (b) if the environmental auditor determines not to issue a certificate of environmental audit, a copy of a statement of environmental audit; and
 - (c) if the environmental auditor determines to issue a certificate of environmental audit, a copy of the certificate of environmental audit.

Penalty: 300 penalty units.

- (3) An environmental auditor must notify the Authority of any imminent environmental hazard as soon as is practicable after becoming aware of the hazard in the course of conducting an environmental audit.

Penalty: 300 penalty units.

53ZC Offences

- (1) An environmental auditor must not—

S. 53ZC
inserted by
No. 7/2001
s. 12.

- (a) give false or misleading information to the Authority or to any other person in carrying out a function under this or any other Act; or

S. 53ZC(1)(a)
amended by
No. 63/2006
s. 60(a).

- (b) issue a certificate of environmental audit or a statement of environmental audit which is false or misleading; or

- (ba) issue a certificate or any other document which is false or misleading in carrying out a function under any other Act; or

S. 53ZC(1)(ba)
inserted by
No. 63/2006
s. 60(b).

- (c) conceal any relevant information or document from the Authority or from any other person in carrying out a function under this or any other Act.

S. 53ZC(1)(c)
amended by
No. 63/2006
s. 60(c).

- (2) An environmental auditor who contravenes subsection (1) is guilty of an indictable offence.

Penalty: 2400 penalty units or imprisonment for 2 years or both.

53ZD Revocation of environmental auditor appointment

If an environmental auditor is convicted of an offence against section 53ZC, the Authority must revoke his or her appointment as an environmental auditor.

S. 53ZD
inserted by
No. 7/2001
s. 12.

S. 53ZE
inserted by
No. 7/2001
s. 12.

53ZE Notification of received statements

- (1) Where a statement of environmental audit has been issued in respect of any premises and a certificate of environmental audit in respect of the premises has not been issued subsequent to the statement, the occupier of the premises must provide a copy of the statement to any person who proposes to become the occupier of the premises.
- (2) If a person becomes the occupier of any premises and the previous occupier did not comply with subsection (1), the current occupier may, within 12 months of becoming the occupier, recover from the previous occupier in any court of competent jurisdiction any reasonable costs incurred in complying with the terms and conditions of the statement of environmental audit.

Part X—General

Division 1—Information to be given to the Authority

Pt 10 Div. 1
(Heading)
inserted by
No. 49/2000
s. 23(a).

54 Furnishing of information

- (1) The Authority may by notice in writing served on the occupier of any premises or any previous occupier of the premises require that occupier to furnish to the Authority within fourteen days or such longer period as is specified in the notice such information as to any manufacturing, industrial, or trade process carried on in or on the premises or as to any waste which has been, is being or is likely to be discharged from, or any noise which has been, is being or is likely to be emitted from, or any waste which is being or is likely to be stored on, those premises as is specified in the notice.

S. 54(1)
amended by
Nos 10092
s. 20(1),
87/1989
s. 40(1).

- (2) Any person who contravenes any requirement made under this section shall be guilty of an offence.

S. 54(2)
amended by
Nos 9758 s. 9,
87/1989 s. 7(j),
49/2000
s. 3(15)(Sch.
item (30)).

Penalty: 120 penalty units.

- (3) Any information furnished or statement made to the Authority pursuant to any requirement made under subsection (1) shall not if the person furnishing the information or making the statement objects, at the time of furnishing the information or statement, to doing so on the ground that it might tend to incriminate him, be admissible in evidence upon any proceedings against that person for an offence except the offence of refusing or failing to comply with the requirements of a notice given under this section.

(4) Nothing in this section shall prevent any such requirement being made at intervals of not less than fourteen days and the penalty prescribed being incurred with respect to refusal or failure to furnish information or to make a statement with respect to each such requirement.

S. 54(5)
inserted by
No. 87/1989
s. 40(2),
amended by
No. 49/2000
s. 29(c).

(5) Without limiting subsection (1) the occupier of any premises or the person in charge of a motor vehicle or ship from which any prescribed substance is accidentally discharged or emitted which could cause an environmental hazard must submit the prescribed information to the Authority without undue delay.

S. 54A
inserted by
No. 9803 s. 6.

54A Furnishing of information relating to emission of wastes or noise from motor vehicles

S. 54A(1)
amended by
Nos 10092
s. 15(4)(a),
127/1986
s. 102(Sch. 4
item 8.3),
87/1989
ss 30(j), 41.

(1) The Authority may by notice in writing require any person who or any body which constructs, manufactures, assembles, sells, supplies or distributes for sale any new motor vehicle or manufactures, installs or sells a component for a motor vehicle which may affect the emissions of wastes or noise from the motor vehicle and may reasonably be expected to be in possession of any information relating to the emission of wastes or noise from motor vehicles (including information relating to such emission by virtue of the use of any apparatus or equipment and information required by the Authority for the making of any measurement or test of such emission by a prescribed method) to furnish that information to the Authority within such time (being a time not less than fourteen days from the date of the giving of the notice) as is specified in the notice.

(2) The Authority may at the request of a person to whom a notice is sent or served pursuant to subsection (1) extend by notice in writing the time within which the information is to be furnished.

- (3) A person who contravenes any requirement made under this section shall be guilty of an offence.

Penalty: 120 penalty units.

S. 54A(3) amended by Nos 10092 s. 20(2), 87/1989 s. 7(j), 49/2000 s. 3(15)(Sch. item (31)).

- (4) The provisions of subsections (3) and (4) of section 54 shall, with such modifications as are necessary, apply to and in relation to this section.

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S. 54A(5) repealed by No. 10092 s. 15(4)(b).

* * * * *

S. 54B inserted by No. 10261 s. 24, amended by Nos 22/1987 s. 15(a)(b), 87/1989 s. 7(b), 49/2000 s. 3(8), repealed by No. 20/2014 s. 9.

Division 1A—The Authority and the IBAC

Pt 10 Div. 1A (Heading and ss 54C–54F) inserted by No. 82/2012 s. 175.

54C Mandatory notification of corrupt conduct to IBAC

S. 54C inserted by No. 82/2012 s. 175.

- (1) Subject to any exemption notice issued under section 57B of the **Independent Broad-based Anti-corruption Commission Act 2011**, the Chairperson must notify the IBAC of any matter that the Chairperson suspects on reasonable

S. 54C(1) substituted by No. 30/2016 s. 80(1), amended by No. 51/2017 s. 37(1).

grounds involves corrupt conduct occurring or having occurred, of which the Chairperson becomes aware in the performance of functions or duties or the exercise of powers under this Act or any other Act.

- (2) This section does not apply to corrupt conduct of the IBAC or IBAC personnel.
- (3) This section does not apply to a matter referred to the Authority by the IBAC under section 73 of the **Independent Broad-based Anti-corruption Commission Act 2011**.
- (4) If the Chairperson considers at any time that any matter described in subsection (3) appears to involve conduct that is corrupt conduct, the Chairperson must inform the IBAC.

S. 54C(3)
amended by
No. 82/2012
s. 308(c).

S. 54C(4)
amended by
Nos 30/2016
s. 80(2),
51/2017
s. 37(2).

S. 54D
inserted by
No. 82/2012
s. 175,
amended by
No. 51/2017
s. 38.

54D Consultation prior to notification

For the purposes of deciding whether to make a notification under this Division to the IBAC, the Chairperson may consult the IBAC.

S. 54E
inserted by
No. 82/2012
s. 175.

54E Communication of information to the IBAC

- (1) At any time, the Chairperson may provide or disclose any information received or obtained in the course of the performance of functions or duties or the exercise of powers of the Authority under this Act or any other Act to the IBAC if the Chairperson considers that—
- (a) the information is relevant to the performance of the functions or duties or the exercise of powers of the IBAC; and

S. 54E(1)
amended by
No. 51/2017
s. 39.

(b) it is appropriate for the information to be brought to the attention of the IBAC, having regard to the nature of the information.

(2) This section applies subject to any restriction on the provision or disclosure of information under this Act or any other Act (including any Commonwealth Act).

54F Authority not to prejudice investigations of the IBAC

S. 54F
inserted by
No. 82/2012
s. 175.

(1) If the Authority is, or becomes, aware of an IBAC investigation, the Authority must take all reasonable steps to ensure that the performance of its functions or duties or the exercise of its powers does not prejudice the IBAC investigation.

(2) For the purposes of ensuring compliance with subsection (1), the Authority may consult the IBAC.

Division 2—Powers of the Authority and authorized officers

Pt 10 Div. 2
(Heading)
inserted by
No. 49/2000
s. 23(b).

55 Powers etc. of authorized officers

(1) An authorized officer may with such assistance as the authorized officer may require enter—

S. 55(1)
amended by
Nos 8277
s. 9, 8823
s. 4(a)–(d),
9207 s. 9(1),
substituted by
No. 10092
s. 21(a).

(a) at any time, any premises used to store, reprocess, treat or otherwise handle industrial waste or used as a factory or any premises in which an industry or trade is being carried on; or

S. 55(1)(a)
amended by
Nos 10261
s. 25(1)(a),
61/2006
s. 37(1),
20/2014
s. 24(1).

Environment Protection Act 1970
No. 8056 of 1970
Part X—General

S. 55(1)(ab)
inserted by
No. 27/2019
s. 7.

(ab) at any reasonable time, any retail premises;
or

(b) at any reasonable time, any other premises
from or on which any waste or pollutant is or
is likely to be discharged or deposited or
from which noise is or is likely to be
emitted—

and may therein do any act or thing, including the
taking and removal of samples, which in the
opinion of the authorized officer is necessary to
be done for the purposes specified in
subsection (1A).

S. 55(1A)
inserted by
No. 10092
s. 21(a).

(1A) The purposes referred to in subsection (1) are as
follows—

S. 55(1A)(a)
amended by
Nos 10261
s. 25(1)(b),
37/2002
s. 11(n).

(a) the prescribing of any matter under this Act
or for any State environment protection
policy or waste management policy;

(b) to determine whether there has been
compliance with or any contravention of this
Act or any works approval, licence, permit or
any other notice or requirements whatsoever
issued or made under this Act;

(c) generally for administering this Act and
protecting the environment.

S. 55(1B)
inserted by
No. 10092
s. 21(a).

(1B) Subject to subsection (1C), an authorized officer
may with such assistance as the authorized officer
may require—

(a) enter upon any land and drill bores for the
purpose of taking and removing samples of
groundwater and making geological studies
to assess the effect of a proposed discharge

- of waste on groundwater quality and to monitor the effect of a discharge of waste; and
- (b) do all such acts and things as may be necessary for or in relation thereto.
- (1C) Before exercising the power conferred by subsection (1B) the authorized officer shall not less than 14 days before the proposed exercise of the power give notice to the occupier of the land or if there is no occupier to any person who appears from the appropriate records to be the owner of the land specifying—
- (a) the land upon which entry is to be made;
 - (b) the acts proposed to be carried out; and
 - (c) the name and occupation of any person who will enter upon the land to carry out the work.
- (1D) Any person who suffers damages as the result of the exercise of the power conferred by subsection (1B) may within 2 years of the exercise of that power apply to the Authority for compensation for that damage.
- (1E) Where the person claiming compensation and the Authority are unable to agree as to the amount of compensation payable, the amount of compensation payable shall be determined by the Magistrates' Court and that determination shall be final and conclusive.
- (2) In the course of his duties an authorized officer may take such photographs or films and make such audio, video or other recordings on any land or premises whatsoever as he considers necessary.

S. 55(1C)
inserted by
No. 10092
s. 21(a).

S. 55(1D)
inserted by
No. 10092
s. 21(a).

S. 55(1E)
inserted by
No. 10092
s. 21(a),
amended by
Nos 16/1986
s. 30, 57/1989
s. 3(Sch.
item 64.6(a)).

S. 55(2)
amended by
No. 7/2001
s. 20.

S. 55(2A)
inserted by
No. 61/2006
s. 55(1).

(2A) An authorized officer may—

- (a) by notice in writing, require a corporation to which section 62A(1AA) applies to produce to the authorized officer any reports, books, plans, maps, or documents relating to the relevant conduct under section 62A(1); and
- (b) take copies of those reports, books, plans, maps or documents.

(3) An authorized officer may, by notice in writing, require—

S. 55(3)(a)
amended by
Nos 8823
s. 4(e)(i)–(iii),
10092
s. 21(b)(i)(ii),
10261
s. 25(1)(c)(d)
(as amended
by No.
22/1987 s. 23).

- (a) the occupier of any premises upon or from which any waste or pollutant has been, is being or is likely to be discharged, or any industrial waste is being stored, reprocessed, treated or otherwise handled, or from which noise has been, is being or is likely to be emitted to produce to the authorized officer any reports, books, plans, maps, or documents relating to the discharge from the premises of any waste or pollutant or the storage, reprocessing, treatment or handling of industrial waste or the emission from the premises of noise or relating to any manufacturing, industrial, or trade process carried on at those premises or data from any monitoring equipment or programme; or

* * * * *

S. 55(3)(aa)
inserted by
No. 61/2006
s. 37(2),
repealed by
No. 20/2014
s. 24(2).

- (ab) the person who is responsible for a process or activity carried on, or the person who is responsible for a use of any premises, being a process, activity or use that is the subject of any regulation or Order declaring policy to

produce to the authorized officer any reports, books, plans, maps or documents relating to that process, activity or use; or

- (b) any person or body to produce to the authorized officer any reports, books, plans, maps, or documents in the custody or possession of that person or body relating to any apparatus, equipment, or works used for the discharge, emission, or deposit of wastes or the storage, reprocessing, treatment or handling of industrial waste or from which noise is emitted—

S. 55(3)(b)
amended by
Nos 8823
s. 4(f), 10261
s. 25(1)(e).

and may take copies of any such reports, books, plans, maps, or documents.

- (3A) An authorized officer may at any reasonable time enter any premises used for or in relation to the manufacture, assemblage, supply, distribution, storage or sale of any new tool, machine, equipment or vehicle and make any inspection measurement or test at the premises in relation to any tool, machine, equipment or vehicle to which any requirement under section 48D applies in order to determine whether the tool, machine, equipment or vehicle complies with the provisions of this Act or the regulations.
- (3AB) An authorized officer may at any reasonable time enter any premises used for or in relation to the sale to members of the public of any equipment, facility, instrument, device or any new vehicle and on payment or tender of a reasonable price demand, select and obtain any equipment, facility, instrument, device or new vehicle to which any requirement under section 48D(3) applies for the making of any inspection, measurement or test to determine whether any requirement under section 48D(3) or the regulations has been complied with.

S. 55(3A)
inserted by
No. 9207
s. 9(2).

S. 55(3AB)
inserted by
No. 10092
s. 17(2).

Environment Protection Act 1970
No. 8056 of 1970
Part X—General

S. 55(3B)
inserted by
No. 9803 s. 7,
amended by
No. 87/1989
s. 42(a).

(3B) An authorized officer may at any reasonable time enter any premises used principally for or in connexion with the manufacture construction assembly distribution maintenance repair or sale of motor vehicles and make any inspection measurement or test in relation to any motor vehicle held at the premises in order to determine whether the vehicle complies with any provision of this Act or would comply with any provision of this Act if the vehicle were to be used on a highway.

S. 55(3C)
inserted by
No. 9803 s. 7.

(3C) Where a motor vehicle is being held at premises for the purposes of maintenance or repair to the vehicle and the owner of the vehicle is not present at those premises with the vehicle, an authorized officer shall take all reasonable steps to notify the owner of the vehicle of his intention to make any inspection measurement or test of the vehicle before doing so.

S. 55(3CA)
inserted by
No. 10261
s. 25(2),
amended by
Nos 22/1987
s. 12(3)(c),
61/2006
s. 55(2),
37/2014
s. 10(Sch.
item 56.3).

(3CA) Where a motor vehicle has been lawfully stopped by a police officer or an officer authorised under section 13 of the **Road Safety Act 1986** an authorized officer may make any inspection, measurement or test in relation to the motor vehicle in order to determine whether the motor vehicle complies with this Act.

S. 55(3CB)–
55(3CD)
repealed.⁴

* * * * *

S. 55(3D)
inserted by
No. 10092
s. 21(c),
amended by
No. 87/1989
s. 42(c).

(3D) An authorized officer may by notice in writing require any person who appears to the authorized officer to be or to have been the occupier of any premises—

Environment Protection Act 1970
No. 8056 of 1970
Part X—General

(aa) from which motor vehicles are displayed for the purposes of sale;

S. 55(3D)(aa)
inserted by
No. 87/1989
s. 42(d).

(a) upon or from which waste has been, is being or is likely to be discharged;

(b) from which noise has been, is being or is likely to be emitted;

(c) from which waste is being or is likely to be emitted; or

(d) upon which waste is being or is likely to be stored or any industrial waste is being stored, reprocessed, treated or otherwise handled—

S. 55(3D)(d)
amended by
No. 10261
s. 25(1)(f).

to furnish to the authorized officer orally or where specified in the notice in writing the name and address of any person who at a date specified in the notice, was in occupation of those premises or any part of the premises specified in the notice or was in control of any plant, process or activity in those premises specified in the notice.

* * * * *

S. 55(3DA)
inserted by
No. 61/2006
s. 37(3),
repealed by
No. 20/2014
s. 24(2).

(3DB) An authorized officer may by notice in writing require any person who appears to the authorized officer to be, or to have been, the person who is—

S. 55(3DB)
inserted by
No. 61/2006
s. 37(3).

(a) in relation to a process or activity carried on or proposed to be carried on which is the subject of any regulation or an Order declaring policy—

(i) responsible for the process or activity being carried on or proposed to be carried on; or

- (ii) the occupier of the premises at which the process or activity is being carried on or proposed to be carried on; or
- (b) in relation to a use, or a proposed use, of any premises, which is the subject of any regulation or an Order declaring policy—
 - (i) responsible for the use or proposed use; or
 - (ii) the occupier of the premises at which the use is being carried on or proposed to be carried on—

to furnish to the authorized officer orally, or where specified in the notice, in writing, the name and address of any person who at a date specified in the notice, was the person referred to in this subsection.

S. 55(3E)
inserted by
No. 10092
s. 21(c),
amended by
Nos 63/2006
s. 37(4),
20/2014
s. 24(3).

- (3E) A person upon whom a notice is served under subsection (3D) or (3DB) shall not be entitled to object to furnishing any information or making any statement as required by that notice on the ground of self-incrimination.

S. 55(3F)
inserted by
No. 10092
s. 21(c).

- (3F) An authorized officer may at any reasonable time enter any premises in which fuel is offered for sale for use in any vehicle or ship and may therein take and remove any samples of any fuel offered for sale for use in any vehicle or ship.

S. 55(4)
repealed by
No. 10092
s. 22(6)(b).

* * * * *

S. 55(5)
amended by
No. 8823
s. 4(g).

- (5) Notwithstanding the provisions of subsection (1) an authorized officer is not entitled to enter a private dwelling house or upon land used in connexion therewith unless he believes on

reasonable grounds that pollutants are being discharged from those premises into the environment or finds that noise of an exceptional volume intensity or quality is being emitted therefrom.

- (6) Any person who delays or obstructs an authorized officer or fails to comply with any requirement made by an authorized officer in the exercise of his powers under this Act or who, being the occupier of any premises, refuses to permit an authorized officer to do anything which he is authorized under this Act to do shall be guilty of an offence.

S. 55(6)
amended by
Nos 9758 s. 9,
10261
s. 25(1)(g),
86/1990
s. 5(a),
49/2000
s. 3(9).

Penalty: 240 penalty units or imprisonment for 6 months or both.

55AA Definitions

S. 55AA
inserted by
No. 10092
s. 15(5).

For the purposes of sections 55A, 55B and 55C—

owner includes the registered owner of a motor vehicle or a vessel;

S. 55AA
def. of
owner
amended by
Nos 127/1986
s. 102(Sch. 4
item 8.4),
65/2010
s. 420(Sch. 3
item 6.5(a)).

ship includes a vessel;

S. 55AA
def. of *ship*
amended by
No. 65/2010
s. 420(Sch. 3
item 6.5(b)).

vehicle includes a motor vehicle.

S. 55AA
def. of
vehicle
amended by
No. 127/1986
s. 102(Sch. 4
item 8.4).

S. 55A
inserted by
No. 8823 s. 5,
amended by
No. 10092
s. 24(2)(a).

S. 55A(1)
amended by
No. 10261
s. 26(a).

S. 55A(2)
amended by
Nos 9803
s. 8(a)–(c),
10092
s. 24(2)(b),
10261 s. 26(b).

S. 55A(3)
amended by
Nos 10092
s. 24(2)(c),
87/1989
s. 10(k).

55A Authority may require vehicle or ship to be made available for testing

- (1) The Authority may by notice in writing served upon any person being the registered owner of or apparently in lawful possession of any vehicle or ship require him to make the vehicle or ship available as required by the notice for the making of any inspection measurement or test by an authorized officer in order to determine whether the vehicle or ship complies with any provision of this Act.
- (2) Any such notice shall state the time (being in the case of a new vehicle not less than seven days and in the case of any other vehicle or a ship not less than fourteen days after the time at which the notice is served) and the place (being, in the case of a vehicle other than a vehicle intended for sale as a new vehicle not more than 50 kilometres from the address at which the vehicle is registered in the case of a ship ordinarily kept afloat at some place, that place, and in the case of any other ship, not more than 50 kilometres from the place at which the ship is ordinarily kept travelling by a convenient route and using suitable means) at which the vehicle or ship is to be made available and the period (being, in the case of a vehicle intended for sale as a new vehicle, forty-eight hours, and in the case of any other vehicle one hour, and in the case of a ship, three hours) for which it is to be required.
- (3) The Authority may upon the request of the person upon whom the notice is served amend in writing the requirements of the notice as to the time or place at which the vehicle or ship is to be made available or the period for which it is to be

required, but not so as to require anything to be done by the person without his consent which the notice might not have required originally.

- (4) A person who contravenes any such notice shall be guilty of an offence against this Act and liable to a penalty of not more than 60 penalty units and to a daily penalty of not more than 15 penalty units for each day during which the offence continues after conviction or after service by the Authority or a protection agency on the accused of notice of contravention of the provisions of this section (whichever is the earlier).
- (5) If a person contravenes a notice under subsection (1) the vehicle or ship in respect of which the notice is served is prohibited from being used or sold on or after the time specified in the notice as the time that the vehicle or ship was to be made available for inspection, measurement or test.
Penalty: 60 penalty units.
- (6) Subsection (5) does not apply to or in relation to the use of the vehicle or ship in connection with the making of any repairs or the making available of the vehicle or ship for inspection, measurement or test.

S. 55A(4) amended by Nos 9758 s. 10, 87/1989 s. 7(k), 86/1990 s. 5(h)(i), 49/2000 s. 3(15)(Sch. item (32)(a)(b)), 68/2009 s. 97(Sch. item 50.20).

S. 55A(5) inserted by No. 87/1989 s. 43, amended by Nos 86/1990 s. 5(g), 49/2000 s. 3(15)(Sch. item (33)).

S. 55A(6) inserted by No. 87/1989 s. 43.

55AB Appointment of approved testers

- (1) The Authority may appoint any person to be an approved tester subject to any conditions the Authority considers appropriate and may at any time revoke the appointment.
- (2) An approved tester—
- (a) may make any inspection, measurement or test in relation to a motor vehicle in order to determine whether the motor vehicle complies with this Act; and

S. 55AB inserted by No. 10261 s. 27.

S. 55AB(2)(a) amended by No. 127/1986 s. 102(Sch. 4 item 8.5).

S. 55AB(2)(b)
amended by
No. 127/1986
s. 102(Sch. 4
item 8.5).

(b) must charge the registered owner or person apparently in lawful possession of the motor vehicle the fee fixed by the Authority.

S. 55AC
inserted by
No. 10261
s. 27.

55AC Certificate of compliance

S. 55AC(1)
amended by
No. 127/1986
s. 102(Sch. 4
item 8.5).

(1) The Authority may by notice in writing given to the registered owner or a person apparently in lawful possession of a motor vehicle require that person to—

S. 55AC(1)(a)
amended by
Nos 127/1986
s. 102(Sch. 4
item 8.5),
22/1987
s. 16(a).

(a) deliver the motor vehicle to the approved tester or one of the approved testers specified in the notice to determine whether the motor vehicle complies with any provision of this Act specified in the notice; and

S. 55AC(1)(b)
amended by
Nos 127/1986
s. 102(Sch. 4
item 8.5),
22/1987
s. 16(b)(i)(ii).

(b) obtain a certificate of compliance from the approved tester and lodge the certificate of compliance with the Authority before the date specified in the notice.

S. 55AC(2)
amended by
No. 127/1986
s. 102(Sch. 4
item 8.5).

(2) If an approved tester is satisfied that a motor vehicle complies with the provisions of this Act specified in the notice the approved tester must give a certificate of compliance to the registered owner or the person apparently in lawful possession of the motor vehicle.

S. 55AC(3)
amended by
Nos 87/1989
s. 7(k),
86/1990
s. 5(h)(i),
49/2000
s. 3(15)(Sch.
item (34)(a)
(b)), 68/2009
s. 97(Sch.
item 50.21).

(3) A person who contravenes a notice under subsection (1) is guilty of an offence against this Act and liable to a penalty of not more than 60 penalty units and to a daily penalty of not more than 15 penalty units for each day during which the offence continues after conviction or after service by the Authority on the accused of notice of contravention of subsection (1).

Environment Protection Act 1970
No. 8056 of 1970
Part X—General

- (3A) It is a defence to a prosecution for an offence under subsection (3) if the person charged shows that the person had advised the Authority in writing before the date specified in the notice under subsection (1) that the motor vehicle would not be used after the specified date except for the purpose of obtaining a certificate of compliance. **S. 55AC(3A) inserted by No. 22/1987 s. 16(c).**
- (4) If a certificate of compliance is not lodged with the Authority a motor vehicle affected by a notice under subsection (1) must not be used after the date specified in the notice except for the purpose of obtaining a certificate of compliance. **S. 55AC(4) amended by Nos 127/1986 s. 102(Sch. 4 item 8.5), 22/1987 s. 16(d).**
- (5) Any person who—
- (a) knows that a motor vehicle is affected by a notice under subsection (1); and **S. 55AC(5)(a) amended by No. 127/1986 s. 102(Sch. 4 item 8.5).**
- (b) uses the motor vehicle in contravention of subsection (4)— **S. 55AC(5)(b) amended by Nos 127/1986 s. 102(Sch. 4 item 8.5), 87/1989 s. 44(a).**
- is guilty of an offence against this Act.
- Penalty: 60 penalty units.
- (6) A person who without permission in writing from the Authority sells any motor vehicle affected by a notice under subsection (1) before—
- (a) an authorized officer has determined that the motor vehicle complies with the provisions of this Act specified in the notice; or **S. 55AC(6) amended by Nos 127/1986 s. 102(Sch. 4 item 8.5), 87/1989 s. 30(k), 49/2000 s. 3(10).**
- S. 55AC(6)(a) amended by No. 127/1986 s. 102(Sch. 4 item 8.5).**

(b) a certificate of compliance is received by the Authority—

is guilty of an offence against this Act.

Penalty: 60 penalty units.

(7) Subsection (6) does not affect the validity of a contract of sale made in contravention of that subsection.

S. 55AC(8)
amended by
No. 22/1987
s. 16(e)(i)(ii),
repealed by
No. 87/1989
s. 44(b).

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S. 55B
inserted by
No. 9207 s. 10.

55B Notice for the making available of certain equipment for inspection etc.

S. 55B(1)
substituted by
No. 10092
s. 17(3)(a).

(1) Where any occupier of any premises to whom section 48D applies has in that person's possession in Victoria any tool, machine, equipment, facility, instrument, device or vehicle to which any requirement under section 48D applies, the Authority may by notice in writing given to that person require that person to make the tool, machine, equipment, facility, instrument, device or vehicle available as required by the notice for the making of any inspection, measurement or test to determine whether any requirement under section 48D or the regulations has been complied with.

S. 55B(2)
amended by
No. 10092
ss 17(3)(b),
24(2)(d).

(2) Any such notice shall state the time (being not less than seven days after the time at which the notice is served) and the place at which the tool, machine, equipment, facility, instrument, device or vehicle is to be made available and the period (being not more than 48 hours) for which it is to be required.

- (3) The Authority may upon request of the person upon whom the notice is served amend in writing the requirements of the notice as to the time or place at which the tool, machine, equipment, facility, instrument, device or vehicle is to be made available or the period for which it is to be required.
- (4) A person who contravenes any such notice shall be guilty of an offence against this Act and liable to a penalty of not more than 300 penalty units and to a daily penalty of not more than 50 penalty units for each day during which the offence continues after conviction or after service by the Authority on the accused of notice of contravention of the provisions of this section (whichever is the earlier).

S. 55B(3)
amended by
Nos 10092
s. 17(3)(b),
87/1989
s.10(k).

S. 55B(4)
amended by
Nos 9758
s. 11, 87/1989
s. 7(k),
86/1990
s. 5(e)(j),
49/2000
s. 3(15)(Sch.
item (35)(a)
(b)), 68/2009
s. 97(Sch.
item 50.22).

55C Prohibition of use of vehicle

- (1) A vehicle may be prohibited from use in accordance with this section if the vehicle is found by an authorized officer on any inspection, measurement or test not to comply with this Act or not to comply with this Act if the vehicle were used on a highway until an authorized officer has conducted a further inspection, measurement or test and found that the vehicle complies with this Act or would comply with this Act if the vehicle were used on a highway.
- (2) An authorized officer may by a notice in the form approved by the Authority to the registered owner or the owner or person apparently in lawful possession of the vehicle or by affixing a label in the form approved by the Authority to the vehicle—
- (a) prohibit the sale of the vehicle without the written permission of the Authority; and

S. 55C
inserted by
No. 9803 s. 9,
amended by
Nos 10092
ss 15(6),
24(2)(e), 10261
s. 28,
substituted by
No. 87/1989
s. 45.

(b) prohibit the use of the vehicle on or after a date (not being less than 30 days after the date of the inspection, measurement or test) specified in the notice or label—

until a further inspection, measurement or test has been made by an authorized officer and the vehicle has been found to comply with this Act or would comply with this Act if the vehicle were used on a highway.

S. 55C(3)
amended by
Nos 86/1990
s. 5(k),
49/2000
s. 3(15)(Sch.
item (36)).

(3) A person must not use a vehicle during any period when the use of the vehicle is prohibited by a notice or label.

Penalty: 60 penalty units.

(4) It is a defence to an offence under subsection (3) if the person charged proves that—

(a) he or she did not know that there was a notice or label affecting the vehicle; or

(b) he or she used the vehicle only for the purpose of making any repairs or adjustments to ensure compliance with this Act or to make the vehicle available for any further inspection, measurement or test.

S. 55C(5)
amended by
Nos 86/1990
s. 5(k),
49/2000
s. 3(15)(Sch.
item (36)).

(5) A person must not sell any vehicle affected by a notice or label in contravention of subsection (2).

Penalty: 60 penalty units.

(6) It is a defence to an offence under subsection (5) if the person charged proves that—

(a) he or she did not know that there was a notice or label affecting the vehicle; or

(b) the Authority gave its permission to the sale in writing.

(7) Subsection (5) does not affect the validity of a contract of sale made in contravention of that subsection.

(8) A person other than an authorised officer who removes alters or defaces a label affixed to a vehicle under this section is guilty of an offence.

Penalty: 60 penalty units.

S. 55C(8)
amended by
Nos 86/1990
s. 5(k),
49/2000
s. 3(15)(Sch.
item (36)).

* * * * *

S. 55D
inserted by
No. 10092
s. 15(7),
substituted by
No. 10261
s. 26(c),
amended by
Nos 127/1986
s. 102(Sch. 4
item 8.6),
52/1988
s. 161(Sch. 6
item 2.3),
repealed by
No. 87/1989
s. 46.

56 Giving name and address

(1) Any person found offending against any of the provisions of this Act shall on demand by an authorized officer give his name and place of residence.

(2) Any person reasonably suspected of committing an offence against this Act who refuses to give his name and place of residence upon demand by an authorized officer or police officer or who gives a false name or place of residence shall be guilty of an offence.

Penalty: 20 penalty units.

S. 56(2)
amended by
Nos 9758 s. 2,
86/1990
s. 5(g),
37/2014
s. 10(Sch.
item 56.3).

S. 56(3)
amended by
No. 37/2014
s. 10(Sch.
item 56.3).

- (3) Any police officer may assist an authorized officer in the execution of his duty.

Pt 10 Div. 3
(Heading)
inserted by
No. 49/2000
s. 23(c).

Division 3—Evidentiary and other legal matters

S. 57
amended by
Nos 8823
s. 6(a)(i)(ii)(b),
9207
s. 11(1)(2),
9427
s. 6(1)(Sch. 5
item 54),
substituted by
No. 10092
s. 22(1),
amended by
Nos 10261
s. 29(1),
87/1989
s. 47(a).

57 Authorized officers and analysts

S. 57(1)
amended by
No. 7/2001
s. 13(1)(a).

- (1) The Authority may appoint any person to be an authorized officer or analyst for the purposes of this Act.

S. 57(2)
amended by
No. 7/2001
s. 13(1)(a).

- (2) The Authority shall issue to every authorized officer or analyst an authority in writing bearing a signed photograph of the officer.

S. 57(3)
amended by
No. 7/2001
s. 13(1)(b).

- (3) An authorized officer or analyst shall if requested to do so on applying for admission to any premises or place where an authorized officer or analyst is empowered to enter by this Act produce the authority in writing.

Environment Protection Act 1970
No. 8056 of 1970
Part X—General

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S. 57(4)(5)
inserted by
No. 87/1989
s. 47(b),
repealed by
No. 7/2001
s. 13(1)(c).

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S. 57AA
inserted by
No. 87/1989
s. 48,
amended by
Nos 20/1994
s. 16(1)(2),
49/2000
s. 3(11)(12)
(15)(Sch.
item (37),
repealed by
No. 7/2001
s. 13(2).

57A Reports and certificates

- (1) Where an analyst carries out an analysis the analyst may prepare and sign a certificate in writing of the analysis.
- (2) Where an authorized officer—
 - (a) takes any measurement, recording or sample or makes any inspection calculation or test for the purposes of this Act;
 - (b) analyses recordings of noise emissions; or
 - (c) inspects and evaluates the records of monitoring and other equipment and installations for the purposes of this Act—the authorized officer may prepare and sign a report in writing in relation thereto.
- (3) In the course of inspecting monitoring and other equipment and installations the authorized officer must report in writing to the Authority or a protection agency as the case requires—

S. 57A
inserted by
No. 9207 s. 12,
substituted by
Nos 10092
s. 22(1), 10261
s. 29(2).

S. 57A(2)(a)
amended by
No. 22/1987
s. 17.

S. 57A(4)
inserted by
No. 87/1989
s. 49,
amended by
No. 37/2014
s. 10(Sch.
item 56.3).

- (a) upon offences against this Act detected and recorded by the monitoring or other equipment or installations; and
 - (b) stating the information supplied by that equipment or those installations and the officer's evaluation of that information.
- (4) An authorised officer or a police officer who observes or inspects a motor vehicle may sign a report to the effect that—
- (a) a motor vehicle did not comply with a provision of this Act; or
 - (b) a motor vehicle was used on a highway; or
 - (c) a person was the driver of a motor vehicle.

S. 57A(5)
inserted by
No. 87/1989
s. 49,
amended by
Nos 61/2006
s. 56, 37/2014
s. 10(Sch.
item 56.3).

- (5) A police officer or an officer authorised under section 13 of the **Road Safety Act 1986** who stopped a motor vehicle may sign a report to the effect that the police officer or the officer lawfully stopped the motor vehicle which was being used on a highway.

S. 57B
inserted by
No. 37/2002
s. 43,
amended by
No. 49/2019
s. 186(Sch. 4
item 17.1).

57B Certificate concerning ownership of vehicle

In proceedings against the registered owner of a vehicle, a certificate from the Secretary to the Department of Transport or the Director of Marine Safety, or from a corresponding person or body in another State or in a Territory of the Commonwealth, stating that a person was the owner of a vehicle on a specified date is evidence that that person was the registered owner of the vehicle on that date.

57C Certificate concerning litter offences

S. 57C
inserted by
No. 37/2002
s. 43.

- (1) In proceedings under Part VIIA, a certificate given by a litter authority stating—
 - (a) that a specified person is, or was on a specified date, a litter enforcement officer appointed by the authority; or
 - (b) that any land is, or was on a specified date, or that any waters are, or were on a specified date, under the control or management of the authority—

is evidence of that fact.

- (2) All courts and persons acting judicially—
 - (a) must take judicial notice of the signature or seal of any litter authority affixed to the certificate; and
 - (b) must, until the contrary is proved, presume that the signature or seal was properly affixed.

57D Certificate concerning presence of junk mail sign

S. 57D
inserted by
No. 37/2002
s. 43.

- (1) A statutory declaration signed by a person that states—
 - (a) that the person is the owner or occupier of a specified premises; and
 - (b) that on a specified date or dates—
 - (i) there was a specified receptacle, slot or place at the premises that was used for the deposit of mail or newspapers (as the case may be); and
 - (ii) there was a sign or marking on or near that receptacle, slot or place that stated "No Advertising Material" or "No Junk Mail" or other specified words indicating that advertising material was

not to be deposited in that receptacle,
slot or place; and

(iii) that that sign or marking was clearly
visible to a person depositing an item in
that receptacle, slot or place; and

(c) that on that date, or on one of those dates,
(as the case may be) the person found
specified material in that receptacle, slot or
place—

is evidence of those matters.

(2) A statutory declaration signed by a person that
states—

(a) that the person is the owner or occupier of a
specified premises; and

(b) that on a specified date or dates—

(i) there was a sign or marking on or
near a door of that premises that
stated "No Advertising Material" or
"No Junk Mail" or other specified
words indicating that advertising
material was not to be deposited in that
receptacle, slot or place; and

(ii) that that sign or marking was clearly
visible to a person depositing an item
under that door; and

(c) that on that date, or on one of those dates,
(as the case may be) specified material was
deposited under that door—

is evidence of those matters.

(3) However, a statutory declaration is not admissible
as evidence under this section in any proceeding
unless—

- (a) a copy of the statutory declaration was served on the accused at least 21 days before the proceeding together with a statement—
- (i) that the certificate is to be used as evidence at the proceeding; and
 - (ii) that the accused has the right to require the prosecution to call as a witness the person who made the statutory declaration, and that the accused must exercise that right if the accused wishes to dispute any statement contained in the statutory declaration; and
 - (iii) that specifies how the accused is to exercise the right if he, she or it wishes to do so; and
- (b) the accused does not give the prosecution a written notice requiring the person who made the statutory declaration to be called as witness at least 7 days before the proceeding starts.

S. 57D(3)(a)
amended by
No. 68/2009
s. 97(Sch.
item 50.23).

S. 57D(3)(a)(ii)
amended by
No. 68/2009
s. 97(Sch.
item 50.23).

S. 57D(3)(a)(iii)
amended by
No. 68/2009
s. 97(Sch.
item 50.23).

S. 57D(3)(b)
amended by
No. 68/2009
s. 97(Sch.
item 50.23).

58 Reports and certificates may be served with summons

S. 58
amended by
Nos 8823
s. 7(a)(b),
10092 s. 22(2)
(3)(a)(b),
substituted by
No. 10261
s. 29(3).

- (1) There is to be served with every summons to answer to a charge of an offence against this Act a copy of any report or certificate provided for in this Act which the prosecutor intends to use in the proceedings for the offence.

S. 58(1)
amended by
Nos 57/1989
s. 3(Sch. item
64.7(a)(i)(ii)),
37/2002 s. 44.

S. 58(2)
amended by
No. 57/1989
s. 3(Sch.
item 64.7(b)).

(2) Service of a copy of a report or certificate with a summons to answer to a charge may be proved in any manner in which service of the summons may be proved.

S. 58(3)
amended by
No. 68/2009
s. 97(Sch.
item 50.24).

(3) If the accused does not give at least seven days' notice in writing before the hearing that the accused requires the person giving the report or certificate to be called as a witness the report or certificate is sufficient evidence of the facts stated therein.

S. 59
amended by
No. 9098
s. 2(2),
substituted by
No. 10092
s. 22(4),
amended by
No. 20/1988
s. 21(1)(a).

59 Persons who may take proceedings

(1) The Authority may appoint any person to take proceedings for offences against this Act.

S. 59(2)
inserted by
No. 20/1988
s. 21(1)(b).

(2) Proceedings for an offence against this Act may only be taken by a person appointed by the Authority.

S. 59(3)
inserted by
No. 48/1988
s. 40(2)(c)(ii)
(as amended
by No. 1/1989
s. 3(c)(i)).

(3) Proceedings for an offence against Part IXB may be taken by a person authorised by a municipal council for that purpose.

S. 59(4)
inserted by
No. 48/1988
s. 40(2)(c)(ii)
(as amended
by No. 1/1989
s. 3(c)(ii)).

(4) A statement in writing given by a municipal council and signed by a person designated by the municipal council for that purpose to the effect that a specified person has been authorised by the municipal council to take proceedings for offences against Part IXB is admissible in evidence and, in the absence of evidence to the contrary, is proof of that statement.

- (5) Proceedings for an offence or infringement against Part VIIA may be taken by—
- (a) a litter enforcement officer;
 - (b) by the person who, or body which, has the control or management of the land or waters where the offence or infringement occurred.

S. 59(5)
inserted by
No. 37/2002
s. 45(1).

59A Statement to be evidence of authority

A statement in writing purporting to be signed by the Authority or a delegated agency as the case requires—

S. 59A
inserted by
No. 8277 s. 10,
amended by
Nos 8823 s. 8,
9098 ss 2(2),
14(a)(b),
substituted by
No. 10092
s. 22(4),
amended by
Nos 10160
s. 4(m),
22/1987
s. 18(c).

- (a) to the effect that a specified person has been generally or specially appointed by the Authority or a delegated agency—

- (i) as an authorized officer;

- (ia) as an environmental auditor;

S. 59A(a)(ia)
inserted by
No. 87/1989
s. 50(a).

- (ii) as an analyst;

* * * * *

S. 59A
(a)(iii)(iv)
repealed by
No. 10261
s. 29(4).

- (v) to take proceedings for offences against this Act;

- (ab) to the effect that a specified person was served with a notice under this Act and failed to comply with that notice;

S. 59A(ab)
inserted by
No. 10160
s. 4(p).

- (ac) to the effect that a specified person has not been appointed by the authority or a delegated agency as an authorized officer;

S. 59A(ac)
inserted by
No. 22/1987
s. 18(a).

S. 59A(ba)
inserted by
No. 20/1988
s. 15.

- (b) to the effect that any exemption has been granted, or any conditions have been imposed, or that any variation or revocation of any condition or exemption has been made under this Act;
- (ba) to the effect that for any specified vehicle, property or person—
 - (i) there was, or was not, in force a permit on a certain date or for a certain period; or
 - (ii) there was in force a permit which was subject to a specified condition, limitation or restriction; or
 - (iii) the permit relating to the vehicle, property or person was suspended on a certain date or for a certain period;

S. 59A(bb)
inserted by
No. 20/1988
s. 15.

- (bb) to the effect that a label was affixed to any specified vehicle under any specified section of this Act;

S. 59A(bc)
inserted by
No. 20/1988
s. 15.

- (bc) to the effect that permission of any specified kind was, or was not, granted under the Act to any specified person;

S. 59A(d)
amended by
Nos 22/1987
s. 18(b),
20/1994
s. 10(2)(a)(i)(ii).

- (c) to the effect that no exemption of any specified kind has been granted under this Act in favour of any specified person; or
- (d) to the effect that any person was or was not licensed or did or did not have a research, development and demonstration approval or a works approval on a certain date or for a certain period or that a licence, a research, development and demonstration approval or works approval was subject to any specified condition, limitation or restriction or that a licence was suspended during a certain period or that a site was or was not licensed

to accept industrial waste on a certain date or for a certain period; or

- (e) that a document, standard, rule, specification or method, a copy of which is attached to the statement is a document, standard, rule, specification or method referred to in a regulation, works approval, notice, licence, research development and demonstration approval, approval under section 30A, permit or policy under this Act; or **S. 59A(e) inserted by No. 22/1987 s. 18(c), amended by No. 20/1994 s. 10(2)(b).**
- (f) to the effect that a declaration of a day as a smog alert day in the whole or any part of Victoria was made by the Authority in respect of any specified day; or **S. 59A(f) inserted by No. 87/1989 s. 50(b).**
- (g) to the effect that a document was or was not lodged with, received by or served on the Authority— **S. 59A(g) inserted by No. 87/1989 s. 50(b).**

shall be prima facie evidence of the matters stated therein.

59AA Execution of documents by Authority

- (1) Where any notice, certificate, order or other document is required to be given, issued or executed by the Authority, this shall be done under— **S. 59AA inserted by No. 10092 s. 23, amended by No. 10160 s. 4(q).**
- (a) the common seal of the Authority affixed by the Chairperson or any other person authorized by the Authority to affix the seal who shall attest by signature the fact and date of the affixing of the seal; **S. 59AA(1)(a) amended by No. 51/2017 s. 40(1).**
- (b) the signature of the Chairperson; **S. 59AA(1)(b) amended by No. 51/2017 s. 40(1).**
- (c) the facsimile signature of the Chairperson; or **S. 59AA(1)(c) amended by No. 51/2017 s. 40(1).**

(d) the signature or facsimile signature of any person to whom the power is delegated under this Act.

(2) All courts and persons acting judicially—

(a) shall take judicial notice of the seal of the Authority affixed to any notice, certificate, order or other document; and

(b) shall, until the contrary is proved, presume that the seal was properly affixed.

(3) All courts and persons acting judicially—

(a) shall take judicial notice of—

(i) the signature or facsimile signature of the Chairperson affixed to any notice, certificate, order or other document;

(ii) the signature or facsimile signature of any officer of the Authority to whom for the time being the Authority has delegated power to sign such notice, certificate, order or other document; and

(iii) the signature or facsimile signature of any authorized officer; and

(b) shall, until the contrary is proved, presume that the signature was properly affixed.

S. 59AA
(3)(a)(i)
amended by
No. 51/2017
s. 40(2).

59AB Evidence

S. 59AB
inserted by
No. 10261
s. 30.

(1) Any instrument or monitoring, recording or other equipment or installation used by an authorized officer or an analyst is presumed to be accurate and precise unless evidence to the contrary is presented in any proceedings under this Act.

S. 59AB(1)
amended by
No. 87/1989
s. 51(a).

- (2) Notwithstanding the rule against hearsay the results of any analysis based on any analytical techniques which by their nature infringe the rule against hearsay are admissible in evidence in any proceedings under this Act.
- (3) Each attribute of a sample taken for any purpose under this Act is presumed not to be materially affected by its method of storage or preservation unless evidence to the contrary is presented. **S. 59AB(3) inserted by No. 20/1988 s. 16.**
- (4) A finding by a court that an attribute of a sample was materially affected by its method of storage or preservation does not displace the presumption in relation to the other attributes of the sample. **S. 59AB(4) inserted by No. 20/1988 s. 16.**
- (5) In any proceedings for an offence relating to the failure of a motor vehicle to comply with this Act, evidence that the motor vehicle was found upon inspection, measurement or test made by an authorised officer not more than 6 weeks after the date of the alleged offence not to comply with any standard prescribed for the purposes of this Act is, in the absence of evidence to the contrary, proof of that non-compliance. **S. 59AB(5) inserted by No. 87/1989 s. 51(b).**
- (6) Notwithstanding the rule against hearsay, a transport certificate relating to the transport of prescribed industrial waste shall be admissible in evidence in any proceedings under this Act and shall be prima facie evidence of the matters stated therein. **S. 59AB(6) inserted by No. 7/2001 s. 21.**

59AC Appearance in proceedings for an offence

If in any proceedings (whether summary or not) in a court for an offence against this Act the informant is a person authorised to take the proceedings under section 59 he or she may appear—

- (a) personally; or

S. 59AC inserted by No. 87/1989 s. 52, amended by No. 37/2002 s. 45(2)(a).

S. 59AC(b)
amended by
Nos 35/1996
s. 453(Sch. 1
item 26),
18/2005
s. 18(Sch. 1
item 37),
17/2014
s. 160(Sch. 2
item 37).

(b) by an Australian legal practitioner or other person empowered by law to appear for him or her; or

S. 59AC(c)
amended by
Nos 37/2002
s. 45(2)(b),
37/2014
s. 10(Sch.
item 56.3).

(c) in the case of an informant who is a police officer, by a police prosecutor; or

S. 59AC(d)
inserted by
No. 37/2002
s. 45(2)(b),
amended by
No. 61/2006
s. 57.

(d) by a person authorised by the Authority to appear on behalf of informants in proceedings under this Act.

S. 59AD
inserted by
No. 61/2006
s. 58.

59AD Summary jurisdiction in indictable offences

S. 59AD(1)
amended by
No. 68/2009
s. 97(Sch.
item 50.25).

(1) Part 3.1 of Chapter 3 of the **Criminal Procedure Act 2009** enabling the hearing of a charge for certain indictable offences in a summary way has effect with respect to indictable offences under this Act, subject to this section.

S. 59AD(2)
amended by
No. 68/2009
s. 97(Sch.
item 50.26(a)).

(2) Any consent required by Part 3.1 of Chapter 3 of the **Criminal Procedure Act 2009** to be given by the person charged may, in the absence of that person, be given on that person's behalf by—

S. 59AD(2)(a)
repealed by
No. 68/2009
s. 97(Sch.
item 50.26(b)).

* * * * *

- (b) the agent of the ship within the meaning of section 61(3) in respect of which the offence is alleged to have occurred.
- (3) The court may hear and determine that charge in a summary way if it considers, of its own motion at any time during or immediately after the hearing of the evidence for the prosecution and whether or not the person charged is present in court or represented in court, that it is fitting for the charge to be disposed of summarily.
- (4) If the person charged is for the time being out of the jurisdiction, service of any documents relating to the offence is sufficiently served on that person by being served on the agent of the ship within the meaning of section 61(3) in respect of which the offence is alleged to have occurred.
- (5) Despite the provisions of any Act, law or usage to the contrary, a person who has been directed to be tried for an indictable offence under this Act may be proceeded against, tried and convicted of the offence in the person's absence.

Division 4—Offences

Pt 10 Div. 4
(Heading)
inserted by
No. 49/2000
s. 23(d).

59B Offences of a fraudulent nature

A person who—

- (a) forges counterfeits or knowing it to be forged or counterfeited utters offers disposes or puts off any paper purporting to be a licence or other instrument issued or made for the purposes of this Act;

S. 59B
inserted by
No. 9098 s. 15,
amended by
Nos 9758 s. 9,
86/1990
s. 5(e),
49/2000
s. 3(15)(Sch.
item (38)).

- (b) falsely purports to be an officer of the Authority or a protection agency employed in the administration of this Act or a person exercising powers or performing duties conferred or imposed upon him by this Act; or
- (c) being a person concerned in the manufacture or sale of any goods, the carrying out or offering of any services, or the advertising of any goods or services, does anything calculated to suggest falsely to any person that the goods or services are approved used or taken advantage of by the Authority or a protection agency—

shall be guilty of an offence.

Penalty: 300 penalty units.

S. 59C
inserted by
No. 9098 s. 15,
amended by
Nos 9758 s. 9,
10261 s. 31(2),
86/1990
s. 5(a),
49/2000
s. 3(15)(Sch.
item (39)(a)
(b)).

59C Offences relating to monitoring equipment

A person who—

- (a) unlawfully interferes with any monitoring equipment used by the Authority or a protection agency for the purposes of this Act, or by any person pursuant to this Act or pursuant to any licence issued under this Act; or
- (b) furnishes to the Authority or a protection agency in purported compliance with any requirement imposed on him by or under this Act or by a licence issued under this Act any information relating to the use of monitoring equipment which he knows to be false—

shall be guilty of an indictable offence.

Penalty: 2400 penalty units.

59D Offence relating to false information

A person who—

- (a) intentionally or negligently provides incorrect or misleading information to or conceals information from the Authority or an authorized officer; or
- (b) intentionally or negligently provides incorrect or misleading information or conceals information concerning the properties or hazards of industrial waste thereby endangering human beings or the environment or adversely affecting the operation of any plant or equipment used to treat or dispose of industrial waste—

is guilty of an indictable offence.

Penalty: 2400 penalty units.

S. 59D
inserted by
No. 9803 s. 10,
amended by
No. 10092
s. 29(3)(b),
repealed by
No. 10160
s. 4(f),
new s. 59D
inserted by
No. 10261
s. 31(1),
amended by
Nos 86/1990
s. 5(a),
49/2000
s. 3(15)(Sch.
item (40)(a)
(b)).

59E Offence of aggravated pollution

A person who intentionally, recklessly or negligently pollutes the environment or intentionally, recklessly or negligently causes or permits an environmental hazard which results in—

- (a) serious damage to the environment; or
- (b) a serious threat to public health; or
- (c) a substantial risk of serious damage to the environment; or

S. 59E
inserted by
No. 20/1988
s. 17(1),
amended by
Nos 87/1989
s. 53, 86/1990
ss 5(l), 11.

(d) a substantial risk of a serious threat to public health—

is guilty of an indictable offence.

Penalty: In the case of an individual, a fine of 2500 penalty units or 7 years imprisonment or both.

In the case of a body corporate, a fine of 10 000 penalty units.

60 Disclosure of information an offence

S. 60
amended by
Nos 9758
s. 12, 86/1990
s. 5(a),
substituted by
No. 53/1992
s. 7.

S. 60(1)
amended by
Nos 49/2000
s. 3(13),
51/2017
s. 41(1).

S. 60(2)
amended by
No. 49/2000
s. 3(13).

S. 60(3)(a)
amended by
No. 51/2017
s. 41(2).

S. 60(3)(ab)
inserted by
No. 82/2012
s. 176.

- (1) A person must not disclose any trade secret, or information about another person's method of operation, manufacturing process, profits or financial position, or any other commercially sensitive information, obtained during the course of the person's duties under this Act or the **Environment Protection Act 2017**.
- (2) A person must not use any such information or trade secret to obtain directly or indirectly any pecuniary or other advantage for himself or herself or for any other person.
- (3) However, the person may disclose or use such information if—
 - (a) the disclosure or use is made in the performance of a duty under, or in connection with, this Act or the **Environment Protection Act 2017**; or
 - (ab) the disclosure is for the purposes of a notification under section 54C, consultation under section 54D or 54F or the provision or disclosure of information under section 54E.

- (b) the person has the consent of the person entitled to the trade secret or to whom the information relates; or
 - (c) the disclosure or use is made in legal proceedings at the direction of a court; or
 - (d) the information is in the public domain at the time it is disclosed or used.
- (4) For the purpose of removing any doubt, this section applies to any person who is a member of, or is employed by, Sustainability Victoria.
- (5) A person who contravenes subsection (1) or (2) is guilty of an indictable offence.
- Penalty: 2400 penalty units or imprisonment for 2 years or both.

S. 60(4)
amended by
Nos 65/1996
s. 24(2)(c),
65/2005
s. 23(3).

S. 60(5)
inserted by
No. 49/2000
s. 3(14).

Division 5—Additional legal matters

Pt 10 Div. 5
(Heading)
inserted by
No. 49/2000
s. 23(e).

60A Notification of notices

- (1) The occupier of any premises on whom a notice has been served under section 28B, 31A, 31B or 62A which is still in force shall notify any person who proposes to become the occupier of that premises as to—
- (a) the requirements contained in that notice; and
 - (b) the steps if any which have been taken to comply with that notice.
- (2) Where a person becomes the occupier of any premises and the previous occupier did not comply with subsection (1) the current occupier may within 12 months of becoming the occupier

S. 60A
inserted by
No. 10092
s. 11(4) (as
amended by
No. 10160
s. 7(4)),
amended by
Nos 87/1989
s. 54, 49/2000
s. 11(7)(c).

recover from the previous occupier in any court of competent jurisdiction any reasonable costs incurred in complying with any requirements contained in a notice served on the current occupier which requirements were contained in a notice which had been served on that previous occupier.

S. 60B
inserted by
No. 10092
s. 11(4) (as
amended by
No. 10160
s. 7(4)),
substituted by
No. 87/1989
s. 55,
amended by
No. 49/2000
s. 11(7)(c).

60B Revocation of notices

The Authority may revoke a notice served under section 28B, 31A, 31B or 62A by a notice of revocation served on the person on whom the notice was served.

S. 60C
inserted by
No. 87/1989
s. 56,
amended by
Nos 86/1990
s. 13(1)(b),
49/2000
ss 11(7)(d), 24,
61/2006 s. 59,
repealed by
No. 78/2012
s. 25.

* * * * *

S. 61
amended by
No. 9098
s. 16(b).

61 Service of notices

S. 61(1)
amended by
No. 9988 s. 7,
substituted by
No. 10092
s. 24(1).

- (1) Where under this Act any notice is required to be given to or served on a person, a true copy of the notice may be given or served by—
 - (a) giving it to or serving it personally on the person;

- (b) sending it by post to the person at that person's usual or last known residential or business address;
 - (c) leaving it at that person's usual or last known residential address with a person on the premises who is apparently at least sixteen years old; or
 - (d) leaving it at that person's usual or last known business address with a person who is apparently employed at the premises and is apparently at least sixteen years old.
- (1A) The provisions of this section are in addition to and not in derogation from the provisions of sections 109X and 601CX of the Corporations Act.
- (1B) Without affecting subsection (1), in the absence of any circumstances making it appear that an alleged offender resides or (as the case may be) carries on business elsewhere—
- (a) in the case of an alleged offence arising out of the driving or use of a motor vehicle—the address appearing as the alleged offender's address in the licence to drive (if any) produced by the alleged offender at the time of the alleged offence or upon the investigation of the alleged offence; and
 - (b) in the case of an offence alleged against the registered owner of a motor vehicle—the address appearing as the address of the owner in the certificate of registration of the motor vehicle for the time being in force under the **Road Safety Act 1986** or under any corresponding Act or law of a State or Territory of the Commonwealth; and

S. 61(1A)
inserted by
No. 10092
s. 24(1),
amended by
Nos 65/1996
s. 30(1)(g),
44/2001
s. 3(Sch.
item 37.4).

S. 61(1B)
inserted by
No. 22/1987
s. 19.

S. 61(1B)(b)
amended by
Nos 49/2000
s. 27(d),
65/2010
s. 420(Sch. 3
item 6.6),
substituted by
No. 36/2013
s. 81.

S. 61(1B)(c)
inserted by
No. 36/2013
s. 81.

- (c) in the case of an offence alleged against the registered owner of a vessel—the address appearing as the address of the owner—
- (i) for a recreational vessel within the meaning of section 3 of the **Marine Safety Act 2010**, in the certificate of registration of the vessel for the time being in force under the **Marine Safety Act 2010** or under any corresponding Act or law of a State or Territory of the Commonwealth; or
 - (ii) for a domestic commercial vessel within the meaning of section 3 of the **Marine Safety Act 2010**, in the certificate of survey of the domestic commercial vessel for the time being in force under the Marine Safety (Domestic Commercial Vessel) National Law—

shall be taken to be the alleged offender's usual or last known residential or business address (as the case may be).

S. 61(2)
inserted by
No. 9098
s. 16(a),
amended by
No. 57/1989
s. 3(Sch.
item 64.8).

- (2) Any summons to answer to a charge of an offence against this Act that is to be served on the owner or master of a ship or notice or other document to be served on or given to the owner or master of a ship for the purposes of this Act may be served on or given to the agent of the ship personally or by post, and any summons notice or document so served or given shall be deemed to have been served on or given to the owner or master of the ship.

- (3) In this section *agent* of a ship means any person who, within Victoria, on behalf of the owner of the ship, undertakes or performs the functions of ship's husbandry or makes any arrangements for or in connexion with the repair or berthing of the ship or the carriage loading or unloading of cargo stores or bunkers thereon or therefrom.
- (4) A person who gives or serves any notice under this Act may instead of attending at any proceedings under this Act make an affidavit endorsed on, or attached to and identifying the original notice stating the time and manner in which the true copy of the notice was given or served and must transmit the original notice for production at the proceedings.
- (5) A document purporting to be an affidavit under subsection (4) is to be received in any proceedings as prima facie evidence of the statements contained therein.

S. 61(3)
inserted by
No. 9098
s. 16(a),
amended by
Nos 10160
s. 4(s),
52/1988
s. 161(Sch. 6
item 2.4),
82/1995 s. 203.

S. 61(4)
inserted by
No. 10261
s. 33.

S. 61(5)
inserted by
No. 10261
s. 33.

61A Effect of notice of amendment which reprint document amended

S. 61A
inserted by
No. 87/1989
s. 57.

If an amendment to a document or record is made by way of a notice which republishes the document or record with the amendment incorporated, the republication is not an issue or re-issue of the document or record.

62 Abatement of pollution in certain cases

S. 62
amended by
No. 8823
s. 9(a)–(c),
substituted by
Nos 10092
s. 25, 10261
s. 32(1).

S. 62(1)
amended by
No. 20/1988
s. 5(b).

- (1) Notwithstanding anything to the contrary in this Act, where—
- (a) pollutants have been or are being discharged;
 - (b) a condition of pollution is likely to arise;
 - (c) any substantial noise is being emitted;
 - (d) any industrial waste or potentially hazardous substance appears to have been abandoned or dumped; or
 - (e) any industrial waste or potentially hazardous substance is being handled in a manner which is likely to cause an environmental hazard—

the Authority may conduct a clean up or cause a clean up to be conducted as the Authority considers necessary.

S. 62(2)
amended by
Nos 22/1987
s. 20, 20/1988
s. 18.

- (2) The Authority may recover any reasonable costs incurred by the Authority in taking any action under subsection (1) from the person who caused the action to be taken or the occupier of the premises on which anything referred to in subsection (1)(a) to (e) has occurred in any court of competent jurisdiction as a debt due to the Authority and when recovered is to be paid into the Consolidated Fund.

- (2A) Reasonable costs includes labour, administrative and overhead costs determined on such basis as the Authority considers appropriate incurred as a result of or apportionable to any action taken by the Authority under subsection (1). **S. 62(2A) inserted by No. 87/1989 s. 58(a).**
- (3) If the Authority cannot recover costs under subsection (2) from the occupier of the premises on which anything referred to in subsection (1)(a) to (e) has occurred the costs become a charge on the property of the occupier or the land of which the premises forms part as the case may be after an advertisement under subsection (3A) has been published three times in a newspaper circulating in the locality of the premises. **S. 62(3) amended by Nos 22/1987 s. 20, 87/1989 s. 58(b), 20/1994 s. 3(2).**
- (3A) The advertisement must specify—
- (a) the purpose of the advertisement and the section of this Act under which it is made; and
 - (b) the amount in respect of which the charge is to be imposed; and
 - (c) the land on which the charge is to be imposed.
- (4) If the property charged is land, the Authority may deposit with the Registrar of Titles a certificate under seal describing the land to be charged and stating the amount of the charge. **S. 62(4) inserted by No. 20/1988 s. 19, substituted by No. 85/1998 s. 24(Sch. item 21.1).**
- * * * * *
- S. 62(5) inserted by No. 20/1988 s. 19, repealed by No. 85/1998 s. 24(Sch. item 21.2).**

S. 62(6)
inserted by
No. 20/1988
s. 19,
amended by
No. 18/1989
s. 13(Sch. 2
item 28(a)).

(6) The Registrar of Titles must make in the Register a recording of a certificate lodged under this section.

S. 62(7)
inserted by
No. 20/1988
s. 19,
amended by
Nos 18/1989
s. 13(Sch. 2
item 28(b)),
86/1990
s. 13(1)(c),
substituted by
No. 85/1998
s. 24(Sch.
item 21.3).

(7) Despite subsection (3), if the property charged is land, the charge does not take effect until the Registrar of Titles makes a recording of the charge in the Register.

S. 62(8)
inserted by
No. 20/1988
s. 19,
amended by
No. 85/1998
s. 24(Sch.
item 21.4).

(8) If the property charged is land and the amount due for costs is paid or recovered, the Authority must inform the Registrar of Titles in writing that the charge no longer applies.

S. 62(9)
inserted by
No. 20/1988
s. 19,
amended by
No. 18/1989
s. 13(Sch. 2
item 28(c)),
substituted by
No. 85/1998
s. 24(Sch.
item 21.5).

(9) The Registrar of Titles must delete the recording of the charge from the Register or make a recording in the Register of the payment or recovery of the charge.

S. 62(10)
inserted by
No. 20/1988
s. 19.

(10) If—
(a) a charge under this section has existed for at least 12 months; and
(b) an amount is still owing under the charge—
the Authority may serve a notice of intention to sell the property.

(11) A notice must—

- (a) be in writing; and
- (b) be served by—

- (i) displaying a copy of the notice on the property (if this is possible); and
- (ii) publishing a copy of the notice once in a newspaper circulating generally in the area in which the property is located and once in a newspaper circulating throughout Victoria—

not less than 1 month before the intended sale.

(11A) If the land to be sold is not under the **Transfer of Land Act 1958**, it must be brought under that Act before it is sold.

(12) Section 77 of the **Transfer of Land Act 1958** applies to the sale as if—

- (a) the charge were a registered first mortgage registered in priority to other registered encumbrances; and
- (b) the Authority were a mortgagee under that mortgage; and
- (c) the owner of the land were a mortgagor under that mortgage; and
- (d) the requirement relating to the giving of notice were deleted; and
- (e) subsection (3)(d) were deleted.

* * * * *

S. 62(11)
inserted by
No. 20/1988
s. 19.

S. 62(11A)
inserted by
No. 85/1998
s. 24(Sch.
item 21.6).

S. 62(12)
inserted by
No. 20/1988
s. 19,
amended by
No. 85/1998
s. 24(Sch.
item 21.7).

S. 62(13)
inserted by
No. 20/1988
s. 19,
repealed by
No. 85/1998
s. 24(Sch.
item 21.8).

S. 62(14)
inserted by
No. 20/1988
s. 19,
amended by
Nos 70/1993
s. 14(Sch.
item 3),
18/1994
s. 66(Sch. 2
item 7) (as
amended by
No. 43/1995
s. 7(2)(a)),
44/2008 s. 108.

- (14) If there is any amount left over from a sale of property after the Authority has deducted its charge and any costs associated with realizing the charge, and the owner of the property still cannot be found, the Authority must pay the amount to the Registrar of Unclaimed Money.

S. 62(15)
inserted by
No. 20/1988
s. 19.

- (15) Any money recovered by the Authority under a charge under this section is to be paid into the Consolidated Fund.

S. 62A
(Heading)
inserted by
No. 61/2006
s. 60(1).

62A Notice to take clean up and on-going management measures

S. 62A
inserted by
No. 10092
s. 25.

S. 62A(1)
substituted by
No. 10261
s. 32(2),
amended by
Nos 20/1988
s. 5(c),
61/2006
s. 60(2).

- (1) Notwithstanding anything to the contrary in this Act, the Authority may by notice in writing direct—

S. 62A(1)(a)
amended by
No. 87/1989
s. 59(a).

- (a) the occupier of any premises upon or from which pollution has occurred or been permitted to occur;

S. 62A(1)(b)
amended by
No. 87/1989
s. 59(b).

- (b) the person who has caused or permitted the pollution to occur;

- (c) any person who appears to have abandoned or dumped any industrial waste or potentially hazardous substance; or

(d) any person who is handling industrial waste or a potentially hazardous substance in a manner which is likely to cause an environmental hazard—

to take the clean up and on-going management measures as specified in the notice.

(1AA) Notwithstanding anything to the contrary in this Act, the Authority may by notice in writing direct a corporation to take the clean up and on-going management measures as specified in the notice if—

S. 62A(1AA)
inserted by
No. 61/2006
s. 60(3).

- (a) a person referred to in subsection (1)(b) or (1)(c) was a subsidiary, related entity or associated entity over which the corporation had control at the time that the conduct referred to in that subsection occurred; and
- (b) having regard to the nature and extent of the control by the corporation over the subsidiary, related entity or associated entity and any other relevant circumstances, either subparagraph (i) or (ii) applies—
 - (i) the corporation or one or more of the directors of the corporation were aware of the conduct of the subsidiary, related entity or associated entity; or
 - (ii) it is reasonable to expect that a corporation in the corporation's circumstances or one or more of the directors of the corporation would have been aware of the conduct of the subsidiary, related entity or associated entity; and

(c) the Authority is not reasonably satisfied that the corporation or one or more of the directors of the corporation took all reasonable steps to prevent the conduct of the subsidiary, related entity or associated entity.

S. 62A(1A)
inserted by
No. 87/1989
s. 59(c).

(1A) The Authority may specify in the notice any condition, requirement, restriction, performance standard or level that it thinks fit, including—

- (a) a condition or requirement that things specified in the notice are to be done to the satisfaction of the Authority; and
- (b) a condition or requirement that things specified in the notice are to be done forthwith or by any day or date or within or over any period as specified in the notice; and

S. 62A(1A)(c)
amended by
No. 61/2006
s. 60(2).

(c) a condition or requirement that clean up and on-going management measures are to be carried out in stages by any day or date within or over any period as specified in the notice; and

S. 62A(1A)(d)
amended by
No. 61/2006
s. 60(2).

(d) a condition or requirement that any measurement, recording, sample, report, plan, drawing, document, calculation, test, analysis or thing be lodged with the Authority or be approved by the Authority before any clean up and on-going management measures or things specified in the notice are carried out.

S. 62A(1AB)
inserted by
No. 20/2014
s. 10(1).

(1AB) The Authority may amend any requirement specified in a notice under subsection (1) or (1AA) by serving on the occupier of the premises or other person to whom the notice was directed a written notice of amendment.

- (1B) The clean up and on-going management measures directed by the Authority to be taken are to be completed and performed as specified in the notice, notwithstanding anything to the contrary in—
- (a) the **Planning and Environment Act 1987** or any regulation, planning scheme or permit made, approved or granted under that Act; and
- (b) the **Building Act 1993** or any regulation or permit made or granted under that Act.
- (2) On the application of the occupier of any premises which is the subject of a notice, a court of competent jurisdiction may order that the person described in subsection (1)(b), (1)(c) or (1)(d) compensate the occupier for any costs incurred by the occupier which the court is satisfied are reasonable and were incurred in good faith in complying with the notice or under subsection (4).
- (3) Subject to subsection (3A), any person to whom a notice under subsection (1) or (1AA) is directed who contravenes without reasonable cause the requirements of the notice shall be guilty of an indictable offence against this Act.
- Penalty: 2400 penalty units.
- (3A) A person to whom a notice under subsection (1) or (1AA) is directed must comply with the reporting requirements specified in the notice.
- Penalty: 60 penalty units.

S. 62A(1B) inserted by No. 87/1989 s. 59(c), amended by Nos 86/1990 s. 13(1)(d), 61/2006 s. 60(2).

S. 62A(1B)(b) amended by No. 126/1993 s. 264(Sch. 5 item 7.1).

S. 62A(2) substituted by No. 20/1988 s. 20(a), amended by No. 87/1989 s. 59(d) (as amended by No. 86/1990 s. 13(2)(e)).

S. 62A(3) amended by Nos 87/1989 s. 7(i)(i)(ii), 86/1990 s. 5(a), 49/2000 s. 3(15)(Sch. item (41)(a)(b)), 61/2006 s. 60(4), 20/2014 s. 10(2).

S. 63A(3A) inserted by No. 20/2014 s. 10(3).

S. 62A(4)
inserted by
No. 87/1989
s. 59(e),
amended by
No. 61/2006
s. 60(4).

- (4) The Authority may recover any reasonable costs incurred by the Authority in issuing a notice under subsection (1) or (1AA) from the person to whom the notice is issued in any court of competent jurisdiction as a debt due to the Authority.

S. 62A(5)
inserted by
No. 87/1989
s. 59(e).

- (5) Any money recovered under subsection (4) is to be paid into the Consolidated Fund.

S. 62A(6)
inserted by
No. 87/1989
s. 59(e).

- (6) For the purposes of subsection (4), reasonable costs includes labour, administrative and overhead costs determined on such basis as the Authority considers appropriate.

S. 62A(7)
inserted by
No. 61/2006
s. 60(5).

- (7) In this section, *associated entity*, *control*, *related entity* and *subsidiary* have the same meanings respectively as they have in the Corporations Act.

S. 62B
inserted by
No. 10092
s. 25.

62B Special powers of authorized officers where imminent danger to life or limb or to the environment

S. 62B(1)
substituted by
No. 10261
s. 32(3),
amended by
Nos 20/1988
s. 5(d),
86/1990
s. 13(1)(e).

- (1) Notwithstanding anything to the contrary in this Act—
- (a) if—
- (i) pollutants have been or are being discharged;
 - (ii) a condition of pollution is likely to arise;
 - (iii) any industrial waste or potentially hazardous substance appears to have been abandoned or dumped; or
 - (iv) any industrial waste or potentially hazardous substance is being handled; and

(b) an authorized officer is of the opinion that there is or is likely to be imminent danger to life or limb or to the environment—

the authorized officer may give such directions either orally or in writing as the authorized officer considers appropriate to remove, disperse, destroy, dispose of, abate, neutralize or treat any pollutant, waste, substance, environmental hazard or noise.

(2) Any costs incurred in complying with subsection (1) by any person who is not the person who caused or permitted the situation described in subsection (1)(a) are to be reimbursed to that person by the Authority.

**S. 62B(2)
substituted by
No. 10261
s. 32(3),
amended by
No. 20/1988
s. 20(b).**

(3) Where the Authority has reimbursed any costs under subsection (2) the Authority may recover the costs from any person proved to have been the person who caused or permitted the situation described in subsection (1)(a) in any court of competent jurisdiction as a debt due to the Authority and when recovered must be paid into the Consolidated Fund.

**S. 62B(3)
substituted by
No. 10261
s. 32(3),
amended by
No. 20/1988
s. 20(c).**

(4) No matter or thing done by an authorized officer or by any person under a direction given by an authorized officer shall, if the matter or thing was done in good faith in the exercise of the power conferred by this section on an authorized officer, subject the authorized officer or that person personally to any action, liability, claim or demand whatsoever.

(5) Any person who contravenes without reasonable cause a direction given by an authorized officer under subsection (1) shall be guilty of an indictable offence against this Act.

**S. 62B(5)
amended by
Nos 87/1989
s. 7(i)(i)(ii),
86/1990
s. 5(a),
49/2000
s. 3(15)(Sch.
item (42)
(a)(b)).**

Penalty: 2400 penalty units.

S. 62C
inserted by
No. 20/1988
s. 21(3).

62C Presumption that occupier caused discharge etc.

If any segment or element of the environment is polluted as a result of a discharge, emission or deposit of any substance from or on any premises on which there is conducted any commercial or industrial undertaking, the occupier of the premises is deemed to have polluted that segment or element of the environment unless the occupier proves that the discharge, emission or deposit was unrelated to the commercial or industrial undertaking.

S. 63
amended by
Nos 8277
s. 11(1)(2),
8823 s. 10,
9098 s. 17,
9207 s. 13,
10092
ss 22(5), 26,
16/1986 s. 30,
substituted by
No. 20/1988
s. 21(3).

63 Owner and master of ship each guilty of pollution from ship

If an offence is committed against this Act with respect to the discharge or emission of wastes or pollutants or noise from any ship, the owner and the master of the ship are each guilty of the offence.

S. 63A
inserted by
No. 10092
s. 27,
amended by
No. 10160
s. 4(m)(t),
substituted by
No. 20/1988
s. 22,
repealed by
No. 61/2006
s. 61.

* * * * *

63B Infringement notices

(1) In this section and in sections 63C and 63D—

S. 63B
inserted by
No. 22/1987
s. 4(1).

infringement means an offence prescribed in
Schedule A;

S. 63B(1)
def. of
infringement
amended by
No. 61/2006
s. 38.

prosecution officer means—

S. 63B(1)
def. of
*prosecution
officer*
amended by
Nos 20/1988
s. 23, 48/1988
s. 40(2)(ca) (as
amended by
No. 87/1989
s. 65(c)),
49/2000
s. 11(11)(a)(b),
7/2001 s. 22,
37/2002 s. 46,
37/2014
s. 10(Sch.
item 56.4).

- (a) in relation to any infringement, any person who has been appointed under section 59 to take proceedings for offences against this Act; and
 - (aa) in relation to an infringement under Part IXB, a person appointed under section 59(3); and
 - (ab) in relation to an infringement under section 48A(8), a person authorised by a municipal council to enforce those sections; and
 - (b) in relation to an infringement under section 48A(8), 48AB(4) or 56(2), a police officer; and
 - (c) in relation to an infringement under Part VIIA, a litter enforcement officer.
- (2) A prosecution officer may serve or cause to be served an infringement notice on any person if the prosecution officer has reason to believe that the person has committed an infringement.
- (3) An offence referred to in subsection (2) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

S. 63B(3)
substituted by
No. 32/2006
s. 94(Sch.
item 15(1)).

S. 63B(4)
amended by
Nos 32/2006
s. 94(Sch.
item 15(2)),
61/2006 s. 38.

(4) The prescribed penalty for the purposes of this section for an infringement is the amount prescribed in Schedule A in respect of that infringement.

S. 63C
inserted by
No. 22/1987
s. 4(1),
repealed by
No. 32/2006
s. 94(Sch.
item 15(3)).

* * * * *

S. 63D
inserted by
No. 22/1987
s. 4(1),
amended by
No. 57/1989
s. 3(Sch.
item 64.10),
repealed by
No. 32/2006
s. 94(Sch.
item 15(3)).

* * * * *

S. 64
amended by
Nos 8823
s. 11, 9758
s. 4, 10160
s. 4(m), 10261
s. 34, 86/1990
s. 5(m),
49/2000
s. 3(15)(Sch.
item (43)).

64 Penalty for failing to obey order to abate pollution

Where a person is convicted of an offence against this Act the court by which he is convicted, in addition to imposing a penalty for the offence, may order that person to take such action within such time as is specified in the order and under the supervision of the Authority or a delegated agency to prevent the continuance or recurrence of the offence and may extend the time so specified: and if, upon the expiration thereof the order has not been complied with the person so convicted shall be liable to a penalty not exceeding 300 penalty units for every day that the non-compliance continues after that time.

64A Authority may obtain injunction

The Authority may whether or not proceedings have been taken for an offence against this Act apply to the Supreme Court for an injunction restraining any person from contravening this Act or any condition of a works approval, licence, permit or notice or compelling any person to comply with this Act or any condition of a works approval, licence, permit or notice.

S. 64A
inserted by
No. 10261
s. 35,
amended by
No. 57/1989
s. 3(Sch. item
64.11(a)(b)).

65 Saving of rights at law

(1) Nothing in this Act or the regulations shall in any way affect any right any person may have at law to restrict or prevent the pollution of the environment or the emission of noise or to obtain damages in respect thereof.

S. 65(1)
amended by
No. 8823
s. 12(1).

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S. 65(2)
repealed by
No. 20/1988
s. 24(2).

* * * * *

S. 65(3)
repealed by
No. 20/1988
s. 24(2).

65A Orders for compensation immediately after a finding of guilt

(1) For the purposes of this Act, in section 86 of the **Sentencing Act 1991**—

- (a) *loss* includes the reasonable costs of a clean up; and
- (b) *compensation for the loss and value of the property lost* includes the estimated costs to complete a clean up or part of a clean up.

S. 65A
inserted by
No. 20/1988
s. 24(1),
amended by
No. 49/1991
s. 119(7)(Sch.
4 item 7).

S. 65A(2)
amended by
No. 49/1991
s. 119(7)
(Sch. 4
item 7).

- (2) The court may only make an order against a person under section 86 of the **Sentencing Act 1991** with respect to an offence under this Act if it is satisfied that the person was served with notice of—
- (a) the applicant's intention to make the application; and
 - (b) the amount and details of the amount sought by the applicant—
- at least 28 days before the application is made.
- (3) The applicant may use an affidavit by any witness or an affidavit as to particular facts if—
- (a) the applicant served notice of intention to use the affidavit with a copy of the affidavit attached on the person at least 28 days before the application is made; and
 - (b) the person did not serve notice of objection to the use of the affidavit on the applicant at least 14 days before the application is made.
- (4) The court may make an order even though the amount of the order exceeds the upper monetary limit of the court's civil jurisdiction.
- (5) If—
- (a) an order of the court includes an amount for estimated costs; and
 - (b) the costs incurred are less than the estimated costs—
- the applicant must refund the difference to the person.
- (6) A person entitled to a refund may recover the refund in any court of competent jurisdiction as a debt due to the person.

- (7) Any money recovered by the Authority under this section is to be paid into the Consolidated Fund.
- (8) Any sum required by the Authority to refund a person under this section is to be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly).
- (9) If any property of the Crown or resource of the State is damaged or injured in the course of the commission of an offence against this Act or the regulations, the Authority may make an application under section 86 of the **Sentencing Act 1991** on behalf of the Crown.
- (10) This section applies to all proceedings where a charge was laid after the commencement of section 24 of the **Environment Protection (Amendment) Act 1988**.

S. 65A(9)
amended by
No. 49/1991
s. 119(7)
(Sch. 4
item 7).

66 Abatement of pollution by protection agency

- (1) If any segment or element of the environment is polluted or an environmental hazard occurs, a protection agency may, and if directed by the Authority must, conduct a clean up.
- (2) The Authority may specify the method to be used in the clean up.
- (3) The protection agency may—
 - (a) recover the costs of a clean up from any person who caused or permitted the pollution or hazard; and
 - (b) exercise any of the rights and powers given to the Authority by this Act with respect to the recovery of costs, resulting from pollution or an environmental hazard.

S. 66
amended by
No. 10092
s. 28(a)(b),
substituted by
No. 20/1988
s. 25.

S. 66A
inserted by
No. 8277 s. 12.

66A Power to Authority to designate agency to have specified responsibilities etc. in polluted areas

- (1) Where it appears to the Authority that a condition of pollution is occurring or is likely to occur in any segment or element of the environment contrary to the provisions of this Act or State environment protection policy established for the area the Authority may—
 - (a) designate any protection agency or agencies to be the agency or agencies having jurisdiction and control over the place and to be responsible therefor either wholly or to the extent limited by the Authority;
 - (b) specify the actions or measures to be taken by the designated agency or agencies for the management and control of the place or for abating or reducing any condition of pollution;
 - (c) direct the designated agency or agencies to construct, maintain, and operate such works, facilities and equipment for abating or reducing pollution as are specified by the Authority;
 - (d) apportion, whether wholly or in part, between all persons or bodies having any responsibility in relation to such place the cost of carrying out any directions given under paragraphs (b) and (c).
- (2) Any protection agency which is aggrieved by any apportionment made by the Authority under paragraph (d) in subsection (1) may within fourteen days after receiving notice of the apportionment appeal to the Governor in Council against the apportionment.

- (3) Upon any such appeal the Governor in Council may confirm or vary the apportionment made by the Authority and the decision of the Governor in Council on the appeal shall be final.

66B Offences by corporations and partnerships etc.

S. 66B
inserted by
No. 10261
s. 36.

- (1) If a corporation contravenes, whether by act or omission, any provision of this Act or a notice or a licence or permit under this Act, each person who is a director or is concerned in the management of the corporation is also guilty of the offence which relates to the contravention and liable to the penalty for that offence.

- (1A) It is a defence to a charge brought under subsection (1) against a person who is a director or is concerned in the management of a corporation if that person proves that—

* * * * *

S. 66B(1A)(a)
repealed by
No. 61/2006
s. 62.

- (b) the person was not in a position to influence the conduct of the corporation in relation to the contravention;
- (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation; or
- (d) the corporation would not have been found guilty of the offence by reason of its being able to establish a defence available to it under this Act.

- (1B) A person who is a director of a corporation or who is concerned in the management of a corporation may, by virtue of subsection (1), be proceeded against and be convicted of an offence in respect of a contravention referred to in that subsection, whether or not the corporation has been proceeded

against or been convicted in respect of the contravention.

- (2) When in any proceedings under this Act it is necessary to establish the intention of a corporation, it is sufficient to show that a servant or agent of the corporation had that intention.
- (3) In respect of any proceedings for an offence by a corporation against this Act any statement made by an officer of the corporation is admissible as evidence against the corporation.
- (4) If a person who is a partner in a partnership contravenes, whether by act or omission, any provision of this Act or a notice or a licence or permit under this Act in the course of the activities of the partnership, each other person who is a partner in the partnership is also guilty of the offence which relates to the contravention and liable to the penalty for that offence.
- (4A) If a person who is concerned in the management of an unincorporated association contravenes whether by act or omission, any provision of this Act or a notice or a licence or permit under this Act in the course of the activities of the unincorporated association, each other person who is at the time of the contravention concerned in the management of the unincorporated association is also guilty of the offence which relates to the contravention and liable to the penalty for that offence.
- (4B) It is a defence to a charge brought under subsection (4) or (4A) if the person charged proves that—

S. 66B(4)
substituted by
No. 87/1989
s. 60.

S. 66B(4A)
inserted by
No. 87/1989
s. 60.

S. 66B(4B)
inserted by
No. 87/1989
s. 60.

S. 66B(4B)(a)
repealed by
No. 61/2006
s. 62.

* * * * *

- (b) the person was not in a position to influence the conduct of the person who committed the contravention; or
- (c) the person, being in such a position, used all due diligence to prevent the contravention; or
- (d) the person who committed the contravention would not have been found guilty of the offence by reason of a defence available under this Act.

(5) In this section—

officer—

- (a) in relation to a corporation within the meaning of the Corporations Act, has the same meaning as it has in the Corporations Act;
- (b) in relation to a corporation which is not a corporation within the meaning of the Corporations Act, means any person, by whatever name called, who is concerned or takes part in the management of the corporation; and
- (c) includes any employee of the corporation who gives to an authorized officer any information relating to any part of the operations of the corporation over which that employee exercises any superintendence or control.

S. 66B(5)
def. of
officer
amended by
Nos 65/1996
s. 30(1)(h)(i)(ii),
44/2001
s. 3(Sch.
item 37.5).

66C Authority to be able to recover costs of analysis

- (1) In this section *work conducted by the Authority* means any analysis, measurement, recording, evaluation, testing or inspection conducted by the Authority through any of its officers, employees or agents.

S. 66C
inserted by
No. 20/1988
s. 26.

- (2) In any proceedings under this Act in which legal costs are awarded to the Authority or a person appointed by the Authority to take proceedings, the court may include in those costs the reasonable market cost of any work conducted by the Authority.
- (3) A document which—
- (a) sets out charges for work similar to any work conducted by the Authority; or
 - (b) purports to estimate the reasonable market cost of any work conducted by the Authority—

and which is signed by, or on behalf of, a person who purports to be a person who charges for doing any work similar to that conducted by the Authority is evidence of the reasonable market cost of work conducted by the Authority.

S. 67
amended by
Nos 9758 s. 2,
86/1990
s. 5(g),
49/2000
s. 3(15)(Sch.
item (44)).

67 General penalty

Any person who is guilty of an offence against this Act for which no penalty is expressly provided shall be liable to a penalty of not more than 120 penalty units.

S. 67AA
inserted by
No. 20/1988
s. 10(b),
amended by
Nos 86/1990
s. 5(c)(n),
49/2000
s. 3(15)(Sch.
item (45)(a)
(b)).

67AA Higher penalty for certain intentional offences

Regardless of anything to the contrary in this Act, if the court which convicts a person of an offence against section 27A(1)(c), 39, 41, 45 or 59D is satisfied that the offence was committed intentionally, the person is liable to a penalty of not more than 5000 penalty units and, in the case of a continuing offence, to a daily penalty of not more than 2500 penalty units for each day the offence continues after conviction.

* * * * *

S. 67AB
inserted by
No. 87/1989
s. 61,
amended by
No. 86/1990
s. 12,
repealed by
No. 37/2002
s. 52.

67AC Court may order offenders to take specified actions

S. 67AC
inserted by
No. 49/2000
s. 5.

- (1) This section applies if a court finds a person guilty of an offence against this Act.
- (2) In addition to, or instead of, any other penalty the court may impose on the person under this Act, the court may order the person to do one or more of the following—
 - (a) to take any action specified by the court to publicise—
 - (i) the offence;
 - (ii) any environmental or other consequences arising or resulting from the offence;
 - (iii) any penalties imposed, or other orders made, as a result of the commission of the offence;
 - (b) to take any action specified by the court to notify one or more people or classes of people of the matters listed in paragraph (a) (for example, to publish a notice in an annual report or to distribute a notice to people affected by the offence);
 - (c) to carry out a specified project for the restoration or enhancement of the environment in a public place or for the public benefit (even if the project is unrelated to the offence);

- (d) to carry out a specified environmental audit of the activities carried on by the person.
- (3) The court may make the order on the application of the Authority, or on its own motion.
- (4) In making an order, the court may specify by when specified actions must be taken and may also impose any other requirement that it considers necessary or expedient to make the order effective.
- (5) If a person is found in contempt of court for failing to comply with an order, the Authority—
 - (a) may do anything that is necessary or expedient to carry out any action that remains to be done under the order and that it is still practicable to do; and
 - (b) may publicise the failure of the person to comply with the order.
- (6) If a person fails to comply with an order made under subsection (2)(a), (b) or (d), the Authority may give the person a written notice advising the person that it intends to carry out specified actions that remain to be done under the order unless the person can, within 14 days after being given the notice, satisfy it that the person will carry out those actions within a period of time acceptable to the Authority.
- (7) If a person who has been given such a notice fails to give the Authority a satisfactory response within the 14 days, or fails to comply with any undertaking given to the Authority in response to such a notice, the Authority—
 - (a) may do anything that is necessary or expedient to carry out any action that remains to be done under the order and that it is still practicable to do; and

- (b) may publicise the failure of the person to comply with the order.
- (8) Nothing in subsections (6) and (7) prevents contempt of court proceedings from being started or continued against a person who has failed to comply with a court order.
- (9) The Authority may recover any cost it incurs in taking action under subsection (5) or (7) as a debt due and payable by the person against whom the order was made.

67A Agreement to waive time limits

**S. 67A
inserted by
No. 10160
s. 10.**

- (1) Notwithstanding anything to the contrary in this Act where this Act requires the Authority to perform any function or exercise any power within a specified period the person who would benefit from the performance of the function or the exercise of the power may by an agreement in writing agree with the Authority to the extension of the specified period by such period as may be agreed between the Authority and that person.
- (2) Where an agreement is reached under subsection (1)—
 - (a) the Authority may perform the function or exercise the power in all respects as if the period specified by the Act had not expired; and
 - (b) any right of appeal conferred by this Act against the failure of the Authority to perform the function or exercise the power within the period specified by the Act shall be held in abeyance and shall operate from the expiry of the period by which the specified period was extended.

67B Financial assurances

S. 67B
inserted by
No. 20/1988
s. 9(7).

S. 67B(1)
amended by
No. 7/2001
s. 23.

S. 67B(1)(a)
amended by
No. 11/2001
s. 3(Sch.
item 23.2(a)).

S. 67B(1)(c)
substituted by
No. 11/2001
s. 3(Sch.
item 23.2(b)).

S. 67B(1)(ca)
inserted by
No. 11/2001
s. 3(Sch.
item 23.2(b)).

- (1) The financial assurances which the Authority may require under sections 21, 31A and 53F may include any of the following—
 - (a) a letter of credit from a body that is permitted to use the expression "bank" under section 66 of the Banking Act 1959 of the Commonwealth;
 - (b) certificates of title;
 - (c) personal guarantees;
 - (ca) guarantees provided by a body that is permitted to use the expression "bank" under section 66 of the Banking Act 1959 of the Commonwealth;
 - (d) bonds;
 - (e) insurance;
 - (f) any other form of security that the Authority considers appropriate.
- (2) The Authority is to determine the type and extent of a financial assurance.
- (3) The Authority may require the financial assurance to extend to the time when it is satisfied that no clean up will be required as a result of the use of the premises or the vehicle.
- (4) That time may extend beyond the time that the approval, licence, notice or permit to which the financial assurance applies is in force.

- (5) If the Authority requires a financial assurance in the form of insurance, it may require that it be a joint insured or a beneficiary of the insurance policy.
- (6) The Authority is deemed to have an insurable interest in the subject-matter covered by the insurance policy.
- (7) A person may apply in writing to the Authority to have a financial assurance amended or discharged at any time.
- (8) The Authority must advise the applicant of its decision on the application within 60 days of receiving the application.

S. 67B(7)
amended by
No. 87/1989
s. 10(h).

67C Claims on financial assurances

S. 67C
inserted by
No. 20/1988
s. 9(7).

- (1) If the Authority incurs costs under section 62(1) or 62B(2), it may recover those costs by making a claim on, utilizing or realizing any financial assurance, or any part of a financial assurance, in respect of any premises or vehicle directly related to the reason the costs were incurred.
- (2) The Authority may do this even though the costs, or part of the costs, can be ascribed to actions taken or not taken at a time when premises were not, or a vehicle was not, the subject of the financial assurance claimed against, utilized or realized by the Authority.
- (3) Any money recovered under this section is to be paid into the Consolidated Fund.

67D Enforceable undertakings

S. 67D
inserted by
No. 61/2006
s. 63.

- (1) This section applies if a person has contravened or allegedly contravened a provision of any Act or regulation in respect of which—
 - (a) the Authority may take proceedings for an offence against the provision; and

- (b) the Authority considers that having regard to the criteria specified in guidelines made under section 67F, an undertaking under this section is an appropriate enforcement mechanism for an offence against the provision.
- (2) If this section applies, the Authority may enter into a written undertaking with a person referred to in subsection (1).
- (3) A person may with the consent of the Authority withdraw or vary an undertaking.
- (4) While an undertaking is in force, proceedings may not be brought for an offence constituted by the contravention or alleged contravention in respect of which the undertaking is given.
- (5) If a person withdraws an undertaking before the undertaking has been fulfilled, proceedings may be brought for the offence constituted by the contravention or alleged contravention in respect of which the undertaking was given.
- (6) If a person complies with the requirements of an undertaking, no further proceedings may be brought for an offence constituted by the contravention or alleged contravention in respect of which the undertaking was given.

S. 67E
inserted by
No. 61/2006
s. 63.

67E Enforcement of undertakings

- (1) If the Authority considers that the person who gave an undertaking under section 67D has breached any of its terms, the Authority may apply to the Magistrates' Court for an order under subsection (2).

- (2) If the Magistrates' Court is satisfied that the person has breached a term of the undertaking, the Magistrates' Court may make any of the following orders—
 - (a) an order directing the person to comply with that term of the undertaking;
 - (b) an order that the person take any specified action for the purpose of complying with the undertaking;
 - (c) any other order that the Magistrates' Court considers appropriate in the circumstances.
- (3) If a person fails to comply with an order made under subsection (2), the Authority may give the person a written notice advising the person that the Authority intends to carry out specified actions that remain to be done under the order unless the person can, within 14 days after being given the notice, satisfy the Authority that the person will carry out those actions within a period of time acceptable to the Authority.
- (4) If a person who has been given a notice under subsection (3) fails to give the Authority a satisfactory response within the 14 days, or fails to comply with any undertaking given to the Authority in response to the notice, the Authority—
 - (a) may do anything that is necessary or expedient to carry out any action that remains to be done under the order and that it is still practicable to do; and
 - (b) may publicise the failure of the person to comply with the order.
- (5) Subsections (3) and (4) do not prevent contempt of court proceedings from being started or continued against a person who has failed to comply with an order made under subsection (2).

- (6) If a person is found in contempt of court for failing to comply with an order made under subsection (2), the Authority—
 - (a) may do anything that is necessary or expedient to carry out any action that remains to be done under the order and that it is still practicable to do; and
 - (b) may publicise the failure of the person to comply with the order.
- (7) The Authority may recover any reasonable cost it incurs in taking action under subsection (4) or (6) as a debt due and payable by the person against whom the order was made under subsection (2).

S. 67F
inserted by
No. 61/2006
s. 63.

67F Guidelines

- (1) The Authority may make guidelines for the purposes of section 67D.
- (2) The Authority must publish guidelines made under subsection (1) in the Government Gazette.
- (3) The Authority must publish a notice of the making of guidelines under subsection (1) in a newspaper generally circulating throughout Victoria.
- (4) Guidelines made under subsection (1) come into operation—
 - (a) on the date the guidelines are published in the Government Gazette; or
 - (b) on a later date as may be specified in the guidelines.
- (5) The Authority may by a notice amend, vary or revoke guidelines made under subsection (1).

- (6) The Authority must publish a notice under subsection (5) in—
- (a) the Government Gazette; and
 - (b) a newspaper generally circulating throughout Victoria.

67G Register of undertakings

S. 67G
inserted by
No. 61/2006
s. 63.

- (1) The Authority must maintain a register of undertakings given under section 67D.
- (2) The Authority must enter details of each undertaking given under section 67D in the register of undertakings.
- (3) The register of undertakings must include—
 - (a) the date the undertaking was given; and
 - (b) a copy of the undertaking.
- (4) A person may inspect the register of undertakings at any reasonable time without charge.

**Division 6—Administrative and
miscellaneous matters**

Pt 10 Div. 6
(Heading)
inserted by
No. 49/2000
s. 23(f).

68 Delegation

- (1) The Governing Board may by instrument in writing delegate to protection agencies all or any of the Authority's powers and functions under this Act or the **Environment Protection Act 2017** so that the delegated powers may be exercised by the delegate but no such delegation precludes the Authority from acting or relieves the Authority of any responsibility for protecting the environment and administering this Act or the **Environment Protection Act 2017**.

S. 68(1)
amended by
No. 10092
s. 29(1)(a),
substituted by
No. 51/2017
s. 42(1).

S. 68(2A)
inserted by
No. 10092
s. 29(1)(b).

(2) An instrument of delegation under subsection (1) may delegate powers and functions to any class or classes of persons or bodies of persons designated in the instrument of delegation.

(2A) Where the exercise of a power or the performance of a function by the Authority is dependent upon the opinion, belief or state of mind of the Authority in relation to a matter and that power or function has been delegated under subsection (1) that power or function may be exercised or performed by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.

S. 68(3)
amended by
No. 51/2017
s. 42(2).

(3) A delegation may at any time be revoked or varied by the Governing Board by notice in writing to the delegate.

S. 68(4)
amended by
No. 51/2017
s. 42(3).

(4) Where any person or body of persons has by any other Act jurisdiction with respect to any segment or element of the environment in any locality the Governing Board may, unless the Minister otherwise approves, delegate the exercise of the Authority's powers and functions with respect to that segment or element of the environment in that locality to that person or body.

S. 68(5)
amended by
No. 46/1998
s. 7(Sch. 1).

(5) The Minister administering Part 7 of the **Financial Management Act 1994** may out of moneys made available by Parliament for the purpose contribute towards the additional costs incurred by protection agencies in carrying out any duties and functions imposed upon or delegated to them by or under this Act or in carrying out research for the purposes of this Act.

68A Power to delegate

S. 68A
inserted by
No. 10092
s. 29(2).

- (1) The Governing Board may, either generally or as otherwise provided by the instrument of delegation, by writing, delegate to an officer or employee of or the holder of an office or position with the Authority all or any of the Authority's or the Governing Board's powers and functions under this Act, the **Environment Protection Act 2017** or any other Act other than this power of delegation.
- (2) A protection agency to whom a power or function has been delegated under section 68 may, either generally or as otherwise provided by the instrument of delegation, by writing, delegate to an officer or employee of or the holder of an office or position with the protection agency all or any of the powers and functions delegated to the protection agency.
- (3) If the Governing Board delegates a power or function to the chief executive officer under subsection (1), the chief executive officer may, either generally or as otherwise provided by the instrument of delegation, by writing, delegate all or any of the delegated powers and functions to—
- (a) an officer or employee of the Authority; or
 - (b) the holder of an office or position with the Authority.

S. 68A(1)
amended by
Nos 10261
s. 37(1),
20/1988
s. 27(a),
substituted by
No. 51/2017
s. 43(1).

S. 68A(2)
amended by
Nos 10261
s. 37(1),
51/2017
s. 43(2).

S. 68A(3)
inserted by
No. 51/2017
s. 43(3).

68B Provisions applicable to delegations

S. 68B
inserted by
No. 10092
s. 29(2).

- (1) The provisions of this section shall apply in respect of any delegation made under section 68A.
- (2) The instrument of delegation shall specify the period of time during which the delegation of the power or function may be exercised or where

S. 68B(2)
amended by
No. 51/2017
s. 44(1).

the Governing Board, protection agency or chief executive officer giving the delegation has resolved that the delegation shall be exercisable for an unlimited period of time, the instrument shall so specify.

S. 68B(3)
amended by
No. 51/2017
s. 44(2)(a).

(3) The Governing Board, protection agency or chief executive officer may—

S. 68B(3)(a)
amended by
No. 51/2017
s. 44(2)(b).

(a) revoke or vary the delegation by notice in writing given to the delegate; and

(b) give directions to the delegate with respect to the exercise of a power or the performance of a function delegated.

S. 68B(4)
amended by
No. 51/2017
s. 44(3).

(4) A power or function delegated by the Governing Board, a protection agency or the chief executive officer shall be exercised or performed in accordance with the instrument of delegation and shall be subject to the conditions and limitations specified in the instrument of delegation.

S. 68B(5)
amended by
No. 51/2017
s. 44(4).

(5) The delegation of a power or function by the Governing Board, a protection agency or the chief executive officer does not prevent the exercise of the power or the performance of the function by the Governing Board, a protection agency or the chief executive officer and does not relieve the Authority of any responsibility for protecting the environment and administering this Act or the **Environment Protection Act 2017**.

(6) Any act or thing done in the exercise of a power or the performance of a function by a person to whom the power or function has been delegated has the same force and effect as if it had been done by the Authority or a protection agency giving the delegation.

- (7) An act of a delegate done within the scope of a delegation to which this section applies during the period in which that delegation remains in force shall not be invalidated by reason of a later revocation or variation of the delegation.
- (8) Where the exercise of a power or the performance of a function by the Authority or a protection agency is dependent upon the opinion, belief or state of mind of the Authority or protection agency in relation to a matter and that power or function has been delegated under a delegation to which this section applies that power or function may be exercised or performed by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.
- (9) Where a person purports to exercise a power or perform a function conferred or expressed to be conferred on the Authority by this Act, the **Environment Protection Act 2017** or any other Act, it shall be presumed, unless the contrary is proved, that the person is duly authorized by a delegation to which this section applies to exercise the power or perform the function and in the case of a delegation to the holder of an office or position to be the person appointed to hold or act in that office or position.
- (10) A document purporting to be signed by a person as a delegate of the Governing Board, a protection agency or the chief executive officer shall be deemed, unless the contrary is proved, to have been signed by the delegate pursuant to the exercise of a power or the performance of a function duly delegated to the person by the Authority, the protection agency or the chief executive officer.

S. 68B(9)
amended by
Nos 10261
s. 37(2),
20/1988
s. 27(b),
51/2017
s. 44(5).

S. 68B(10)
amended by
No. 51/2017
s. 44(6).

69 Fees and penalties to be paid to the Consolidated Fund

S. 69(1)
amended by
No. 48/1988
s. 40(2)(d)(i).

- (1) Subject to subsection (3), all fees payable under this Act and all penalties for offences against this Act, when recovered, shall be paid to the Consolidated Fund.
- (2) All fees under this Act paid to protection agencies shall be paid by them to the Authority for payment to the Consolidated Fund.

S. 69(3)
inserted by
No. 48/1988
s. 40(2)(d)(ii),
substituted by
No. 49/2000
s. 11(12).

- (3) All—
 - (a) fees paid to a municipal council under Part IXB may be retained by the council; and

S. 69(3)(b)
amended by
No. 37/2002
s. 47(a)(b).

- (b) penalties for offences or infringements under section 48A(3) or (8) or Part VIIA or IXB in cases where the prosecution was undertaken, or the infringement notice was issued, by a person authorised for that purpose by a municipal council must be paid to the council once they have been recovered; and

S. 69(3)(c)
inserted by
No. 37/2002
s. 47(b).

- (c) penalties for offences or infringements under Part VIIA in cases where the prosecution was undertaken, or the infringement notice was issued, by a person authorised for that purpose by a litter authority must be paid into the litter authority's fund, or if the litter authority does not have a fund, but administers or uses money paid to or collected by it, to the litter authority as part of that money, once the penalties have been recovered.

70 Environment Protection Fund

- (1) There shall be kept in the Treasury in the Public Account as part of the Trust Fund an account to be called the "Environment Protection Fund".

- (2) Any moneys standing to the credit of the said fund may be invested in such securities as are approved by the Treasurer.
- (3) Into the Environment Protection Fund there shall be paid—
- (a) any moneys provided by Parliament for the purpose; and
 - (aa) any money collected as levy under section 24A; and
 - (ab) any money collected as a levy under section 50S(2); and
 - (aba) any other money collected as a levy under Division 3 of Part IX; and
 - (ac) any money collected as a fee under section 53T(3); and
 - (b) any interest derived from the investment of moneys standing to the credit of the fund; and
 - (c) moneys repaid to the Treasurer upon advances made by the Treasurer under subsection (4) and interest thereon.
- (4) Subject to subsection (6), out of the Environment Protection Fund the Treasurer may make grants or advances to bodies incorporated under any Act for a public purpose for or towards the cost of carrying out any necessary works for the treatment or disposal of wastes in accordance with the provisions of this Act and the regulations in

S. 70(3)
amended by
No. 87/1989
s. 62(a).

S. 70(3)(aa)
inserted by
No. 87/1989
s. 62(a).

S. 70(3)(ab)
inserted by
No. 2/1999
s. 14(2)(a),
substituted by
No. 37/2002
s. 35(1)(b).

S. 70(3)(aba)
inserted by
No. 37/2002
s. 35(1)(b).

S. 70(3)(ac)
inserted by
No. 7/2001
s. 13(3).

S. 70(4)
amended by
No. 87/1989
s. 62(b).

circumstances where existing facilities are or are likely to become inadequate for complying with the provisions of this Act.

- (5) Advances under subsection (4) shall be subject to such conditions for the repayment thereof and interest or otherwise as are agreed upon between the Treasurer and the body concerned.

S. 70(5A)
inserted by
No. 37/2002
s. 48.

- (5A) Money paid into the Environment Protection Fund under section 69(3)(c) is to be applied by the Authority for the purposes of environment protection.

S. 70(6)
inserted by
No. 87/1989
s. 62(c),
amended by
No. 2/1999
s. 14(2)(b),
substituted by
No. 37/2002
s. 35(2).

- (6) Money paid into the Environment Protection Fund under subsection (3)(aa) or (3)(ab) is to be applied by the Authority for the purposes of environment protection.

S. 70(6A)
inserted by
No. 7/2001
s. 13(4).

- (6A) Money paid into the Environment Protection Fund under subsection (3)(ac) is to be applied by the Authority for the purposes of Part IXD.

S. 70(6B)
inserted by
No. 37/2002
s. 35(3),
amended by
No. 54/2014
s. 70,
substituted by
No. 20/2014
s. 25.

- (6B) Money paid into the Environment Protection Fund under subsection (3)(aba) may only be applied in accordance with section 70E.

S. 70(6C)
inserted by
No. 37/2002
s. 35(3),
repealed by
No. 54/2010
s. 70(3).

* * * * *

(7) There may be paid out of the Environment Protection Fund—	S. 70(7) inserted by No. 2/1999 s. 14(3).
(a) any amount the Authority is required to pay to a person as a refund of any levy paid under Division 3 of Part IX; and	S. 70(7)(a) amended by No. 37/2002 s. 35(1)(c).
(b) any amount needed to refund any money paid into the Fund under subsection (3)(ab) or (3)(aba) as a result of a miscalculation or other error.	S. 70(7)(b) amended by No. 37/2002 s. 35(1)(d).
70A Restrictions concerning the distribution of money derived from the general landfill levy	S. 70A inserted by No. 37/2002 s. 36, amended by Nos 54/2010 s. 70(4), 20/2014 s. 26(1).
(1) Despite section 70F(3)(a) and (b), the Premier and the Minister must not consent to the application of any money under that section unless—	S. 70A(1) amended by No. 20/2014 s. 26(4) (ILA s. 39B(1)).
(a) there is in existence a statement produced and published in accordance with section 70B setting out, in order of priority, the matters in respect of which they intend money to be applied under that section in the relevant period; and	S. 70A(a) amended by No. 54/2010 s. 70(5).
(b) there are in force guidelines as to how they will exercise their powers under that section and those guidelines have been publicly published.	S. 70A(b) amended by No. 20/2014 s. 26(2).
* * * * *	S. 70A(c) amended by No. 54/2010 s. 70(6), repealed by No. 20/2014 s. 26(3).

S. 70A(2)
inserted by
No. 20/2014
s. 26(4).

- (2) Despite the amendment of this section by section 26 of the **Environment Protection and Sustainability Victoria Amendment Act 2014**—
- (a) a statement required by section 70A(a) and in force immediately before the commencement of that section is taken to be a statement prepared under section 70B(1AA); and
 - (b) any guidelines made for the purposes of section 70A(b) and in force immediately before the commencement of that section are taken to be guidelines prepared under section 70C.

S. 70B
inserted by
No. 37/2002
s. 36.

70B Priority statement

S. 70B(1AA)
inserted by
No. 20/2014
s. 27(1).

(1AA) The Minister may prepare a statement setting out, in order of priority, the matters in respect of which the Minister and the Premier intend money to be applied under section 70F(3).

S. 70B(1)
amended by
No. 20/2014
s. 27(2).

- (1) A statement under subsection (1AA) is produced and published in accordance with this section if the following steps are taken—
- (a) a draft statement is produced; and
 - (b) notice of the production of the draft statement is advertised in a newspaper circulating generally throughout Victoria; and
 - (c) the advertisement includes—
 - (i) an outline of the draft statement; and
 - (ii) advice as to where a copy of the draft statement can be obtained or examined; and

- (iii) a statement inviting anyone with an interest in the matter to make comments to the Premier or the Minister within 21 days after the date of publication of the advertisement; and
- (d) there is published on the Internet site of the Department of Environment and Primary Industries a copy of the draft statement and a copy of the statement required by paragraph (c)(iii); and
- (e) the Premier and the Minister consider any comments that are made in response to the invitations made under paragraphs (c)(iii) and (d) before approving and publishing the statement; and
- (f) a copy of the approved statement is published in the Government Gazette.
- (2) It is not necessary to comply with this section in the case of a statement—
- (a) that only revokes an existing statement; or
- (b) that only amends an existing statement if the amendment is of a machinery or administrative nature.

S. 70B(1)(c)(iii)
amended by
No. 54/2010
s. 70(7).

S. 70B(1)(d)
amended by
Nos 54/2010
s. 70(8),
20/2014
s. 27(3).

S. 70B(1)(e)
amended by
Nos 54/2010
s. 70(9),
20/2014
s. 27(4).

S. 70B(1)(f)
amended by
No. 20/2014
s. 27(5).

70C Restrictions concerning section 70A(b) guidelines

S. 70C
inserted by
No. 37/2002
s. 36.

- (1) A guideline made for the purposes of section 70A(b) has no effect until it is published in the Government Gazette.
- (1A) The Minister must cause to be published any guidelines made for the purposes of section 70A(b)—

S. 70C(1)
amended by
No. 20/2014
s. 28(1).

S. 70C(1A)
inserted by
No. 20/2014
s. 28(2).

S. 70C(2)
amended by
No. 20/2014
s. 28(3).

- (a) in the Government Gazette; and
 - (b) on the Internet site of the Department of Environment and Primary Industries.
- (2) On or before the 6th sitting day after a guideline is published in the Government Gazette, the Minister must ensure that a copy of the guideline is laid before each House of the Parliament.
- (3) A failure to comply with subsection (2) does not affect the operation or effect of the guideline but the Scrutiny of Acts and Regulations Committee of the Parliament may report the failure to each House of the Parliament.
- (4) A guideline may be disallowed in whole or in part by either House of Parliament.
- (5) Part 5 of the **Subordinate Legislation Act 1994** applies to a guideline as if—
- (a) a reference in that Part to a "statutory rule" was a reference to the guideline; and
 - (b) a reference in section 23(1)(c) of that Part to "section 15(1)" was a reference to subsection (2).

S. 70D
inserted by
No. 37/2002
s. 36,
substituted by
Nos 54/2010
s. 71, 20/2014
s. 29.

70D General Landfill Levy Account

- (1) Within the Environment Protection Fund, the Authority must maintain an account known as the General Landfill Levy Account.
- (2) The Authority must credit to the General Landfill Levy Account all amounts paid into the Environment Protection Fund under section 70(3)(aba).
- (3) This section does not affect the operation of section 70(7).

70E Municipal and Industrial Landfill Levy Trust Account

- (1) The Department of Environment and Primary Industries must establish and maintain an account called the Municipal and Industrial Landfill Levy Trust Account.
- (2) The Authority must credit to the Municipal and Industrial Landfill Levy Trust Account any amount standing to the credit of the General Landfill Levy Account at the end of each quarter by the 15th day of the following quarter.
- (3) Money paid into the Municipal and Industrial Landfill Levy Trust Account may only be applied by paying an amount to one or more of the following bodies—
 - (a) the Authority;
 - (b) Sustainability Victoria;
 - (c) a Waste and Resource Recovery Group;
 - (d) a public entity or other body established for public purposes to be used for environment assessment, protection, restoration or improvement purposes.
- (4) Any amount paid under subsection (3) must be paid in accordance with a determination under subsection (5).
- (5) The Minister must make a determination specifying—
 - (a) an amount to be paid under subsection (3) or the methods by which the amounts are to be calculated; and
 - (b) the times at which each amount must be paid; and
 - (c) the period for which the determination applies.

S. 70E
inserted by
No. 65/2005
s. 25,
substituted by
No 54/2010
s. 71,
amended by
No. 78/2012
s. 21,
substituted by
No. 20/2014
s. 29.

- (6) This section does not affect the operation of section 70(7).

S. 70F
inserted by
No. 54/2010
s. 71,
substituted by
Nos 78/2012
s. 22, 20/2014
s. 29.

70F Sustainability Fund Account

- (1) The Department of Environment and Primary Industries must establish and maintain an account called the Sustainability Fund Account.
- (2) The Department must credit to the Sustainability Fund Account any amount standing to the credit of the Municipal and Industrial Landfill Levy Trust Account at the end of each quarter.
- (3) Money paid into the Sustainability Fund Account may only be applied by paying an amount—
 - (a) with the consent of both the Premier and the Minister, for the purposes of fostering environmentally sustainable uses of resources and best practices in waste management to advance the social and economic development of Victoria; or
 - (b) with the consent of both the Premier and the Minister, for the purposes of fostering community action or innovation in relation to the reduction of greenhouse gas substance emissions or adaptation or adjustment to climate change in Victoria.

71 Regulations

- (1) The Governor in Council on the recommendation of the Authority may make regulations for or with respect to—
 - (a) prescribing scales of fees to a maximum of 4500 fee units with respect to an application for a works approval;

S. 71(1)(a)
substituted by
No. 10092
s. 30(a),
amended by
No. 87/1989
s. 19(f).

Environment Protection Act 1970
No. 8056 of 1970
Part X—General

- | | |
|--|---|
| (aa) prescribing scales of fees in respect of a licensed scheduled premises to a maximum of 42 000 fee units with respect to each element of the environment being the atmosphere, land or waters to which waste is licensed to be discharged, emitted or deposited, payable on the issue of a licence and annually on the date fixed by the Authority under section 24(1)(a); | S. 71(1)(aa) inserted by No. 10092 s. 30(a), amended by Nos 87/1989 s. 19(g), 86/1990 s. 6(1)(b), 7/2001 s. 17(2), 20/2008 s. 4. |
| (ab) prescribing fees not exceeding 85 fee units with respect to an application to amend a licence; | S. 71(1)(ab) inserted by No. 10092 s. 30(a), amended by No. 87/1989 s. 19(h). |
| (ac) prescribing fees not exceeding 35 fee units with respect to an application to transfer a works approval or a licence; | S. 71(1)(ac) inserted by No. 10092 s. 30(a), amended by No. 87/1989 s. 19(i). |
| (aca) prescribing a fee with respect to a completed environmental audit; | S. 71(1)(aca) inserted by No. 7/2001 s. 13(5). |
| (ad) prescribing any premises or class of premises as a scheduled premises; | S. 71(1)(ad) inserted by No. 10092 s. 30(a), amended by Nos 10261 s. 38(a)(i)(ii), 87/1989 s. 63(1)(a), 86/1990 s. 4(d)(i)(ii), substituted by No. 61/2006 s. 32. |

Environment Protection Act 1970
No. 8056 of 1970
Part X—General

S. 71(1)(ada)
inserted by
No. 20/1994
s. 13(2),
substituted by
No. 61/2006
s. 32.

(ada) specifying scheduled premises or a class of scheduled premises in respect of which the Authority may require a financial assurance;

S. 71(1)(adb)
inserted by
No. 61/2006
s. 32.

(adb) specifying scheduled premises or a class of scheduled premises in respect of which the landfill levy is payable;

S. 71(1)(adc)
inserted by
No. 61/2006
s. 32.

(adc) specifying scheduled premises or a class of scheduled premises in respect of which the environment protection levy is payable;

S. 71(1)(add)
inserted by
No. 61/2006
s. 32.

(add) prescribing reduced scales of licence fees payable by licence holders in respect of accreditation on the anniversary of the issue of the licence;

S. 71(1)(ae)
inserted by
No. 10092
s. 30(a),
amended by
Nos 10160
s. 11, 10261
s. 38(b),
87/1989
s. 63(1)(b) (as
amended by
No. 86/1990
s. 13(2)(f)).

(ae) exempting any persons or class of persons, any motor vehicle or class of motor vehicles, any premises or class of premises, any operation or work carried on upon any premises, or any category, type, volume or kind of waste or prescribed waste from all or any of the provisions of this Act;

S. 71(1)(af)
inserted by
No. 10092
s. 30(a).

(af) specifying circumstances in which and conditions subject to which an exemption under paragraph (ae) shall apply;

S. 71(1)(b)
amended by
No. 10160
s. 4(u).

(b) State environment protection policy;

Environment Protection Act 1970
No. 8056 of 1970
Part X—General

- | | |
|--|---|
| (ba) waste management policy; | S. 71(1)(ba)
inserted by
No. 10261
s. 38(c),
amended by
No. 37/2002
s. 11(n). |
| (bb) a national environment protection measure; | S. 71(1)(bb)
inserted by
No. 61/2006
s. 64. |
| * * * * * | S. 71(1)(bb)
inserted by
No. 53/1992
s. 8,
repealed by
No. 37/2002
s. 37(b). |
| (c) prescribing standards or criteria for the
implementation of any declared State
environment protection policy or waste
management policy and for protecting
beneficial uses; | S. 71(1)(c)
amended by
Nos 10160
s. 4(v),
37/2002
s. 11(t). |
| (ca) regulating the implementation of economic
measures, including prescribing conditions to
which particular schemes are subject and the
circumstances under which the Authority
may alter, suspend or terminate the
entitlements held under a scheme; | S. 71(1)(ca)
inserted by
No. 7/2001
s. 7. |
| * * * * * | S. 71(1)(cb)
inserted by
No. 61/2006
s. 39,
repealed by
No. 20/2014
s. 30 (as
amended by
No. 21/2015
s. 3(Sch. 1
item 19)). |

Environment Protection Act 1970
No. 8056 of 1970
Part X—General

S. 71(1)(cc)
inserted by
No. 61/2006
s. 39,
repealed by
No. 20/2014
s. 30 (as
amended by
No. 21/2015
s. 3(Sch. 1
item 19)).

* * * * *

(d) prescribing standards or criteria for determining when any matter action or thing is poisonous, noxious, objectionable, detrimental to health, or within any other description referred to in this Act;

S. 71(1)(da)
inserted by
No. 10261
s. 38(d).

(da) prescribing any matter relating to the management, storage, use, handling, disposal or transport of prescribed waste and notifiable chemicals;

S. 71(1)(db)
inserted by
No. 10261
s. 38(d).

(db) requiring information relating to prescribed waste and notifiable chemicals to be collected and supplied to the Authority;

S. 71(1)(e)
amended by
Nos 9803
s. 11(a),
30/1989
s. 5(a).

(e) prohibiting or regulating the discharge, emission, or deposit into the environment of any matter, whether liquid, solid, or gaseous or of radio-activity and prohibiting or regulating the use of any specified chemical substance or fuel;

S. 71(1)(ea)
inserted by
No. 10037
s. 6(a).

(ea) for the purposes of section 42B and the regulations, prescribing the maximum amounts of lead, sulphur and phosphorus which may be present in unleaded petrol, and prescribing specifications for motor octane number and research octane number in unleaded petrol;

S. 71(1)(eb)
inserted by
No. 10037
s. 6(a).

(eb) regulating the construction, installation and operation of equipment and fittings used for or in connexion with the dispensing of

- petrol, including prohibiting or regulating modifications to such equipment;
- (ec) prescribing the maximum and minimum amounts of constituents (other than lead) which may be present in petrol and prescribing specifications for motor octane number and research octane number in petrol;
- (ed) prescribing the maximum amount of lead which may be present in petrol;
- (f) prescribing ambient air quality standards and emission standards and specifying the maximum permissible concentrations of any matter that may be present in or discharged into the atmosphere;
- (fa) prescribing noise emission standards for different kinds of premises, equipment, facilities, instruments, devices, vehicles and ships;
- (faa) prohibiting either generally or in specified circumstances or subject to specified conditions the discharge or emission into the atmosphere of any matter;
- (fab) prohibiting or regulating the emission or discharge of greenhouse gas substances into the environment;
- (fac) prescribing standards for the emission or discharge of greenhouse gas substances into the environment, including emission intensity standards and maximum levels of emissions of greenhouse gas substances;
- S. 71(1)(ec) inserted by No. 20/1994 s. 15(3).
- S. 71(1)(ed) inserted by No. 20/1994 s. 15(3).
- S. 71(1)(fa) inserted by No. 8823 s. 13(a), amended by No. 9207 s. 14(a).
- S. 71(1)(faa) inserted by No. 9571 s. 5(a).
- S. 71(1)(fab) inserted by No. 54/2010 s. 72.
- S. 71(1)(fac) inserted by No. 54/2010 s. 72.

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S. 71(1)(fad)
inserted by
No. 54/2010
s. 72.

(fad) prescribing the conditions under which
greenhouse gas substances may be emitted
or discharged into the environment;

S. 71(1)(fb)
inserted by
No. 9207
s. 14(b),
repealed by
No. 10092
s. 30(b).

* * * * *

S. 71(1)(fc)
inserted by
No. 9207
s. 14(b),
substituted by
No. 10092
s. 30(c),
amended by
No. 30/1989
s. 5(b)(i)(ii).

(fc) requiring any goods, equipment, facility,
instrument, device, machinery, plant or
vehicle or the packaging thereof to be fitted
or marked with a plate, label or other
marking and prescribing the manner in
which the plate, label or other marking is to
be fitted or marked;

S. 71(1)(fca)
inserted by
No. 10037
s. 6(b).

(fca) requiring the display in or upon, or the
affixing to—
(i) vehicles; or
(ii) equipment and fittings used for or in
connexion with the dispensing of
fuel—

of plates, labels or markings to indicate that a
vehicle, equipment or machinery is required to
operate with, or to use, specified fuels, or to
indicate that a vehicle, equipment or machinery
complies with this Act or provisions of this Act,
including prescribing the design, construction,
size and information to be included on and
method of affixing such plates, labels or
markings;

S. 71(1)(fd)
inserted by
No. 9207
s. 14(b),
substituted by
No. 10092
s. 30(d).

(fd) prescribing types of plates, labels and other
markings and the information to be
contained therein;

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- | | |
|---|---|
| (fe) prohibiting the removal or defacing of any prescribed plate, label or other marking required to be fitted or marked to or on any goods, equipment, facility, instrument, device, machinery, plant or vehicle or the packaging thereof; | S. 71(1)(fe) inserted by No. 9207 s. 14(b), substituted by No. 10092 s. 30(e), amended by No. 30/1989 s. 5(b)(i)(ii). |
| (fea) prohibiting or regulating the use of goods, equipment, machinery, fittings, facilities, instruments, devices, plant or vehicles where the design, construction or labelling does not comply with this Act; | S. 71(1)(fea) inserted by No. 10037 s. 6(c), amended by No. 30/1989 s. 5(c)(i)(ii). |
| (feb) prohibiting the use of equipment for dispensing fuel where the fuel dispensed does not accord with the labels on the equipment; | S. 71(1)(feb) inserted by No. 10037 s. 6(c). |
| (fec) prohibiting the use in prescribed vehicles of petrol other than unleaded petrol within the meaning of section 42B; | S. 71(1)(fec) inserted by No. 10037 s. 6(c). |
| (g) prohibiting the use of any machinery, facility, vehicle or ship capable of causing pollution or of emitting excessive amounts of wastes; | S. 71(1)(g) substituted by No. 9803 s. 11(b). |
| (ga) prohibiting the use of any equipment, facility, instrument, device, vehicle or ship capable of emitting noise that does not meet any prescribed noise emission standards in any respect or regulating or prohibiting the construction, installation, operation, removal, replacement or repair thereof so as to prevent or minimize the emission of noise; | S. 71(1)(ga) inserted by No. 8823 s. 13(b), amended by No. 20/1988 s. 28. |
| (gaa) regulating the construction, installation or operation of any machinery, facility, vehicle or ship or the repair or maintenance of any vehicle so as to prevent or minimize pollution; | S. 71(1)(gaa) inserted by No. 9803 s. 11(b). |

S. 71(1)(gb)
inserted by
No. 9571
s. 5(b).

(gb) requiring the installation and use in connexion with any equipment or facility of apparatus, plant or structures to prevent pollution of the atmosphere and prohibiting the operation of any specified equipment or facility unless there is installed and operated in connexion with the equipment or facility, structures, plant or apparatus to prevent pollution of the atmosphere;

S. 71(1)(gba)
inserted by
No. 30/1989
s. 5(d),
amended by
No. 87/1989
s. 63(1)(c).

(gba) prohibiting or regulating the use of any ozone-depleting substance or the manufacture, assembly, installation, operation, maintenance, removal, sale or disposal of goods, equipment, machinery or plant containing or using ozone-depleting substances;

S. 71(1)(gc)
inserted by
No. 9571
s. 5(b),
amended by
No. 10092
s. 30(f).

(gc) the measures to be taken to ensure that the discharge of waste into the atmosphere or into waters from premises or any class of premises is monitored or kept under observation, and requiring the monitoring or observation of the emission or discharge into the atmosphere or into waters of waste or any specified class of waste;

S. 71(1)(gd)
inserted by
No. 9571
s. 5(b).

(gd) requiring the installation of insulation in relation to premises or specified classes of premises to prevent or minimize the emission or discharge into the atmosphere of waste or any specified class of waste;

S. 71(1)(ge)
inserted by
No. 10092
s. 30(g).

(ge) prescribing standards to be maintained for receiving waters;

S. 71(1)(gf)
inserted by
No. 10092
s. 30(g).

(gf) specifying the quality and quantity of waste discharged into waters;

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- | | |
|---|--|
| (gh) specifying the maximum permissible concentrations of any matter that may be present in or discharged into waters; | S. 71(1)(gh) inserted by No. 10092 s. 30(g). |
| (gi) regulating the construction, installation, operation and maintenance of any plant, equipment or facility so as to prevent or minimize the pollution of waters; | S. 71(1)(gi) inserted by No. 10092 s. 30(g). |
| (gj) prescribing the process or processes to be used for the treatment of waste or any specified class of waste so as to prevent or minimize the pollution of waters; | S. 71(1)(gj) inserted by No. 10092 s. 30(g). |
| (h) requiring the giving of pollution warnings or alerts; | |
| (i) prohibiting or regulating the open burning of refuse or other combustible matter; | |
| (j) regulating the establishment of sites for the disposal of solid or liquid wastes on or in land and the use of any such sites (whether or not established after the commencement of this Act); | S. 71(1)(j) amended by No. 9098 s. 18. |
| (ja) prescribing the following types of prescribed industrial wastes— | S. 71(1)(ja) inserted by No. 61/2006 s. 54(3). |
| (i) category A waste; | |
| (ii) category B waste; | |
| (iii) category C waste, including packaged waste asbestos; | |
| (iv) any other category; | |
| (k) defining objectionable noise; | S. 71(1)(k) amended by No. 9207 s. 5(3). |

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S. 71(1)(ka)
inserted by
No. 61/2006
s. 45,
substituted by
No. 27/2019
s. 8(1).

(ka) prescribing banned plastic bags;

S. 71(1)(kb)
inserted by
No. 61/2006
s. 45,
substituted by
No. 27/2019
s. 8(2).

(kb) prescribing exempt plastic bags;

S.
71(1)(kc)–(kg)
inserted by
No. 61/2006
s. 45,
repealed by
No. 27/2019
s. 8(3).

* * * * *

(l) further defining litter for the purposes of this Act;

S. 71(1)(la)
inserted by
No. 10092
s. 30(h),
amended by
No. 2/1999
s. 18(a).

(la) prescribing types or classes of waste for the purposes of Part IXA;

S. 71(1)(lb)
inserted by
No. 10092
s. 30(h).

(lb) regulating and controlling the vehicular transport of waste;

- (lc) prescribing fees not exceeding 200 fee units for applications for the issue, transfer and variation of permits under Part IXA and, for the annual renewal of those permits, fees not exceeding 200 fee units in respect of each vehicle to which the permit is to apply;
- (ld) identification of waste, the making and keeping of records about waste or the movement of waste, the notification and reporting of information about the waste or the movement of waste;
- (lda) permits required under section 53A, including—
- (i) applications for the issue of permits, and the renewal, transfer and variation of those permits;
 - (ii) the issue of those permits;
 - (iii) conditions on those permits;
 - (iv) the transfer and variation of permits;
 - (v) the refusal and suspension or cancellation of those permits;
 - (vi) the renewal of those permits;
- (le) prescribing maximum fees for the issue of permits for septic tank systems for different premises or class of premises, which fees may vary according to the extent and nature of—
- (i) the septic tank system; and
 - (ii) the premises;

S. 71(1)(lc) inserted by No. 10092 s. 30(h), substituted by No. 10261 s. 38(e), amended by Nos 48/1988 s. 40(2)(e)(i), 87/1989 s. 19(j), substituted by No. 2/1999 s. 18(b).

S. 71(1)(ld) inserted by No. 10092 s. 30(h), substituted by No. 2/1999 s. 18(c).

S. 71(1)(lda) inserted by No. 2/1999 s. 18(c).

S. 71(1)(le) inserted by No. 48/1988 s. 40(2)(e)(ii).

- (m) prohibiting or regulating bathing, swimming, boating or other aquatic activity in or around any waters that may be detrimental to health or welfare or for preventing pollution;
- S. 71(1)(ma)**
inserted by
No. 8823
s. 13(d).
- (ma) prescribing the method by which any measurement or test shall be made for any of the purposes of this Act;
- S. 71(1)(mb)**
inserted by
No. 8823
s. 13(d).
- (mb) prescribing the facts by which and the manner in which it may be proved that any noise emitted from any source does not comply with any standard prescribed in respect thereof by or under this Act;
- S. 71(1)(n)**
amended by
No. 8823
s.13(c).
- (n) generally the prevention, control, abatement, or mitigation of pollution and noise;
- S. 71(1)(na)**
inserted by
No. 49/2000
s. 25.
- (na) prescribing the fees chargeable or payable for doing any act or providing any service for the purposes of the regulations and prescribing the person, people or body to which the fees are payable, and providing for the distribution of those fees and for the refund of fees in specified circumstances;
- S. 71(1)(o)**
amended by
Nos 9758 s. 7,
49/2000
s. 6(a)(b).
- (o) prescribing penalties of not more than 50 penalty units for any breach of the regulations and in the case of continuing offences imposing a daily penalty of not more than 25 penalty units for every day the offence continues after conviction or notice under this Act in addition to any other penalty;
- (p) any matter or thing which by this Act is authorized or required or permitted to be prescribed or which is necessary or expedient to be prescribed for carrying this Act into effect.

(2) Any such regulation may be general or may be restricted in operation as to time, place, persons, or circumstances whether any such time place person or circumstance is determined or ascertainable before at or after the making of the regulation.

(2A) Any such regulation may—

(a) leave any matter or thing to be determined, applied, dispensed with or regulated by the Authority; or

(b) confer a power or a discretionary authority, or impose a duty, on the Authority.

S. 71(2A)
inserted by
No. 65/1996
s. 22.

(2B) Any such regulation may provide that the Authority may exempt a person or thing or a class of people or things from having to comply with the regulation either wholly or partly, and may permit the Authority to impose conditions in relation to exemptions.

S. 71(2B)
inserted by
No. 49/2000
s. 26.

(3) Any regulation made under subsection (1) for the purpose of prescribing the method by which any measurement or test is to be made for the purposes of this Act may apply, adopt or incorporate, with or without modification, the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body as in force at a particular time or as in force from time to time.

S. 71(3)
inserted by
No. 8823
s. 13(e),
substituted by
No. 22/1987
s. 21.

S. 71(4)
inserted by
No. 8823
s. 13(e),
repealed by
No. 9988 s. 8,
new s. 71(4)
inserted by
No. 30/1989
s. 6,
amended by
Nos 87/1989
s. 63(2),
78/2010
s. 24(Sch. 1
item 13.1).

(4) Regulations made under subsection (1) may be disallowed in whole or in part by resolution of either House of Parliament.

S. 71(5)
inserted by
No. 8823
s. 13(e),
repealed by
No. 9988 s. 8,
new s. 71(5)
inserted by
No. 30/1989
s. 6,
repealed by
No. 78/2010
s. 24(Sch. 1
item 13.2).

* * * * *

S. 72
inserted by
No. 10261
s. 39.

72 Provision for matter by reference

S. 72(1)
amended by
Nos 37/2002
s. 11(n),
61/2006 s. 65.

(1) Regulations made under this Act may make provision for or in relation to any matter by applying, adopting or incorporating with or without modification the provisions of any State environment protection policy or waste management policy or of a national environment protection measure as in force at a particular time or as in force from time to time.

S. 72(2)
amended by
No. 37/2002
s. 11(n).

(2) State environment protection policy or waste management policy may make provision for or in relation to any matter by applying, adopting or incorporating with or without modification the

provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body as in force at a particular time or as in force from time to time.

73 Transitional provisions—Health and Human Services Legislation Amendment Act 2010

S. 73
inserted by
No. 29/2010
s. 42.

- (1) Any report submitted by the Secretary to the Department of Human Services under section 20A before the commencement day is taken in respect of any period on or after the commencement day to have been submitted by the Secretary to the Department of Health.
- (2) Any recommendation made by the Secretary to the Department of Human Services under section 28 before the commencement day is taken in respect of any period on or after the commencement day to have been made by the Secretary to the Department of Health.
- (3) In this section *commencement day* means the date of commencement of Division 2 of Part 5 of the **Health and Human Services Legislation Amendment Act 2010**.

74 Transitional provisions—Environment Protection and Sustainability Victoria Amendment Act 2014

S. 74
inserted by
No. 20/2014
s. 31.

- (1) Despite the repeal of Division 2AC of Part IX by section 19 of the 2014 Act, the Metropolitan Waste Management Group established under section 50 of this Act as in force immediately before the commencement of section 19 of the 2014 Act continues in operation until the commencement of the Metropolitan Waste and Resource Recovery Group under section 49D.
- (2) Despite the repeal of Division 2AD of Part IX by section 19 of the 2014 Act, the Metropolitan Waste and Resource Recovery Strategic Plan as

in force immediately before the commencement of that section continues to have effect until the Regional Waste and Resource Recovery Implementation Plan for the waste and resource recovery region of the Metropolitan Waste and Resource Recovery Group takes effect.

- (3) Despite the repeal of Division 2B of Part IX by section 21 of the 2014 Act, a regional waste management plan as in force immediately before the commencement of that section continues to have effect until a Regional Waste and Resource Recovery Implementation Plan that provides for the same municipal districts provided for in the regional waste management plan takes effect.
- (4) Despite the amendment of section 70 by section 25 of the 2014 Act, any money standing to the credit of the general landfill levy account maintained under the Environment Protection (Distribution of Landfill Levy) Regulations 2010 as in force immediately before the commencement of that section is taken to be money standing to the credit of the General Landfill Levy Account maintained under section 70D.
- (5) Despite the substitution of section 70F by section 29 of the 2014 Act, any money standing to the credit of the Sustainability Fund Account as in force immediately before the commencement of that section is taken to be money standing to the credit of the Sustainability Fund Account under section 70F after that commencement.
- (6) In this section—

2014 Act means the **Environment Protection and Sustainability Victoria Amendment Act 2014**.

Schedules

Schedule A—Infringements

<i>Infringement</i>	<i>Penalty</i>	
Any offence against section 43A, 48(1), 48A(8), 48B(1), 48C(1), 53L, 53MA, 53MB, 53N, 55AC(3), 55A(4), 55AC(5), 55AC(6) or 56(2)	10 penalty units (in the case of a body corporate) 5 penalty units (in any other case)	S. 63B. Sch. inserted by No. 8823 s. 14, repealed by No. 10261 s. 19(2), new Sch. inserted by No. 22/1987 s. 4(2), amended by Nos 48/1988 s. 40(2)(f) (as amended by No. 87/1989 s. 65(d)), 87/1989 s. 64(a)–(d), 86/1990 ss 5(o)(p), 10(2), 13(1)(f)(g), re-numbered as Sch. A by No. 53/1992 s. 9(a), amended by No. 2/1999 s. 19(a), substituted by No. 49/2000 s. 7, amended by Nos 2/1999 s. 19(b), 7/2001 s. 14, 37/2002 ss 8, 49, 61/2006 ss 24(2), 40, 78/2012 ss 24, 26, 20/2014 ss 11, 32, 27/2019 s. 9.
Any offence against section 19A(8), 27(1), 27(1A), 27(2), 27A(1), 27A(2), 28B(5), 31A(7), 31B(6), 42(1), 42(2), 42(2A), 42(2B), 42(3), 42B(2), 42B(8), 42B(11), 42B(13), 48AB(4), 49AM(1), 51E(5), 51F(4), 53A(3), 53A (other than a continuing offence), 53E (other than a continuing offence), 53Q, 54(2), 54A(3), 55B(4), 55C(3), 55C(5), 55C(8) or 59C	50 penalty units (in the case of a body corporate) 12 penalty units (in any other case)	
Any offence against section 31D(4)	50 penalty units (in the case of a body corporate) 12 penalty units (in any other case)	
Any offence against the regulations	10 penalty units (in the case of a body corporate) 5 penalty units (in any other case)	
Any offence against section 53ZB(1), 53ZB(2) or 53ZB(3)	60 penalty units (in the case of a body corporate) 15 penalty units (in any other case)	
Any offence under section 45E involving litter that is burning when it is deposited (including a cigarette butt)	4 penalty units	
Any offence under section 45E involving an extinguished cigarette butt, a ring pull or any other small item	2 penalty units	
Any other offence under section 45E	2 penalty units	

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Schedule A—Infringements

<i>Infringement</i>	<i>Penalty</i>
Any offence under section 45L, 45M, 45N, 45O, 45P, 45Q, 45T, 45U, 45V, 45ZG or 45ZI(7)	2 penalty units
An offence under section 45S	10 penalty units
An offence under section 45X(3) or 45Y(3)	12 penalty units
An offence under section 45ZB(3)	8 penalty units
An offence under section 45ZM	10 penalty units (in the case of a body corporate) 2 penalty units (in any other case)
An offence against section 62A(3A)	10 penalty units (in the case of a body corporate) 5 penalty units (in any other case)

Environment Protection Act 1970
No. 8056 of 1970
Schedule C—Municipal districts to which section 50S(1) applies

**Schedule C—Municipal districts to which
section 50S(1) applies**

Banyule	Golden Plains	Moonee Valley
Bayside	Greater Dandenong	Moreland
Ballarat	Hobson's Bay	Mornington Peninsula
Greater Bendigo	Hume	Nillumbik
Boroondara	Kingston	Port Phillip
Brimbank	Knox	Stonnington
Cardinia	Manningham	Whitehorse
Casey	Maribyrnong	Whittlesea
Darebin	Maroondah	Wyndham
Frankston	Melbourne	Yarra
Greater Geelong	Melton	Yarra Ranges
Glen Eira	Monash	

Sch. C
inserted by
No. 53/1992
s. 9(b),
amended by
GG 29.2.96
p. 506,
No. 65/1996
s. 24(2)(d)(e),
substituted by
No. 65/1996
s. 23.

Environment Protection Act 1970
No. 8056 of 1970
Schedule D—Amount payable as landfill levy

Schedule D—Amount payable as landfill levy

Sch. D
inserted by
No. 53/1992
s. 9(b),
amended by
GG 7.3.96
p. 663,
No. 65/1996
s. 24(2)(d)(e),
repealed by
No. 65/1996
s. 23,
new Sch. D
inserted by
No. 37/2002
s. 32(2),
amended by
No. 61/2006
s. 54(4),
substituted by
Nos 20/2010
s. 3, 25/2011
s. 3,
amended by
No. 20/2014
s. 12.

<i>Date when waste is deposited</i>	<i>Amount payable for each tonne deposited (in dollars)</i>			
	<i>Schedule C Premises</i>		<i>Non-Schedule C Premises</i>	
	<i>Municipal waste</i>	<i>Industrial waste</i>	<i>Municipal waste</i>	<i>Industrial waste</i>
on or after 1 July 2011 and before 1 July 2012	44	44	22	38.50
on or after 1 July 2012 and before 1 July 2013	48.40	48.40	24.20	42.40
on or after 1 July 2013 and before 1 July 2014	53.20	53.20	26.60	46.60
on or after 1 July 2014 and before 1 July 2015	58.50	58.50	29.30	51.30

Environment Protection Act 1970
No. 8056 of 1970

Schedule DA—Amount payable as landfill levy from 1 July 2015 to 30 June 2021

**Schedule DA—Amount payable as landfill
levy from 1 July 2015 to 30 June 2021**

Sch. DA
(Heading)
amended by
No. 47/2020
s. 23(1).

Sch. DA
inserted by
No. 20/2014
s. 13,
amended by
No. 47/2020
s. 23(2).

<i>Date when waste is deposited</i>	<i>Amount payable for each tonne deposited (in fee units)</i>			
	<i>Schedule C Premises</i>		<i>Non-Schedule C Premises</i>	
	<i>Municipal waste</i>	<i>Industrial waste</i>	<i>Municipal waste</i>	<i>Industrial waste</i>
on or after 1 July 2015 and before 1 July 2021	4.45	4.45	2.23	3.90

Environment Protection Act 1970
No. 8056 of 1970
Schedule DB—Amount payable as landfill levy from 1 July 2021

Sch. DB
inserted by
No. 47/2020
s. 24.

**Schedule DB—Amount payable as landfill
levy from 1 July 2021**

<i>Date when waste is deposited</i>	<i>Amount payable for each tonne deposited (in dollars)</i>			
	<i>Schedule C Premises</i>		<i>Non-Schedule C Premises</i>	
	<i>Municipal waste</i>	<i>Industrial waste</i>	<i>Municipal waste</i>	<i>Industrial waste</i>
on or after 1 July 2021	105.90	105.90	52.95	93.19

Environment Protection Act 1970

No. 8056 of 1970

Schedule E—Amount payable as prescribed industrial waste landfill levy for
each tonne deposited to land (in dollars)

**Schedule E—Amount payable as prescribed
industrial waste landfill levy for each tonne
deposited to land (in dollars)**

Sch. E
inserted by
No. 61/2006
s. 54(5),
amended by
No. 20/2008
s. 5.

Category B waste	250
Category C waste not being packaged waste asbestos	70
Category C waste which is packaged waste asbestos	30

Environment Protection Act 1970
No. 8056 of 1970

Schedule F—Amount payable as prescribed industrial waste landfill levy for
each tonne deposited on to land (in dollars) from 1 July 2021

Sch. F
inserted by
No. 47/2020
s. 25.

**Schedule F—Amount payable as
prescribed industrial waste landfill levy for
each tonne deposited on to land (in dollars)
from 1 July 2021**

Category B waste	250
Category C waste not being packaged waste asbestos	105.90
Category C waste which is packaged waste asbestos	30

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The **Environment Protection Act 1970** was assented to on 22 December 1970 and came into operation as follows:

Sections 1–4, 5(a)(b), 6, 7, 9–11, 13(1)(a)–(c)(e)–(p)(2)(3), 14–19, 54, 55, 57, 60, 61, 65(1), 71 on 15 March 1971: Government Gazette 11 March 1971 page 629; rest of Act on 1 March 1973: Government Gazette 31 January 1973 page 215.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

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- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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2 Table of Amendments

This publication incorporates amendments made to the **Environment Protection Act 1970** by Acts and subordinate instruments.

Environment Protection (Amendment) Act 1972, No. 8277/1972

Assent Date: 13.5.72
Commencement Date: 24.5.72: Government Gazette 24.5.72 p. 1678
Current State: All of Act in operation

Magistrates' Courts (Jurisdiction) Act 1973, No. 8427/1973

Assent Date: 17.4.73
Commencement Date: Ss 3, 6, 8(b), 10(1) (*except* para. (k)), 11 on 3.2.75: Government Gazette 22.1.75 p. 122; rest of Act on 1.9.75: Government Gazette 30.7.75 p. 2705
Current State: All of Act in operation

Environment Protection (Amendment) Act 1974, No. 8560/1974

Assent Date: 7.5.74
Commencement Date: 7.5.74
Current State: All of Act in operation

Environment Protection (Noise Control) Act 1975, No. 8823/1975

Assent Date: 9.12.75
Commencement Date: 1.2.76: Government Gazette 17.12.75 p. 4060
Current State: All of Act in operation

Health Commission Act 1977, No. 9023/1977

Assent Date: 24.5.77
Commencement Date: S. 40(Sch. 1 item 6(a)–(c)) on 6.12.78: Government Gazette 6.12.78 p. 3759
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection (Amendment) Act 1978, No. 9098/1978

Assent Date: 9.5.78
Commencement Date: 1.8.78: Government Gazette 19.7.78 p. 2351
Current State: All of Act in operation

Environment Protection (Noise Control) Act 1978, No. 9207/1978

Assent Date: 5.12.78
Commencement Date: 4.5.81: Government Gazette 21.1.81 p. 197
Current State: All of Act in operation

Town and Country Planning (Amalgamation) Act 1980, No. 9425/1980

Assent Date: 20.5.80
Commencement Date: Pts 1, 2 on 30.6.80: Government Gazette 25.6.80 p. 2123; Pts 3, 4, 5 on 2.2.81: Government Gazette 30.1.81 p. 311
Current State: All of Act in operation

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Statute Law Revision Act 1980, No. 9427/1980

Assent Date: 27.5.80
Commencement Date: 27.5.80: subject to s. 6(2)
Current State: All of Act in operation

Planning Appeals Board Act 1980, No. 9512/1980

Assent Date: 23.12.80
Commencement Date: 1.12.81: Government Gazette 25.11.81 p. 3886
Current State: All of Act in operation

Environment Protection (Clean Air) Act 1981, No. 9571/1981

Assent Date: 19.5.81
Commencement Date: 27.7.81: Government Gazette 1.7.81 p. 2083
Current State: All of Act in operation

Environment Protection (Licence Fees) Act 1981, No. 9623/1981

Assent Date: 8.12.81
Commencement Date: 1.1.82: Government Gazette 16.12.81 p. 4149
Current State: All of Act in operation

Environment Protection (Penalties) Act 1982, No. 9758/1982

Assent Date: 13.7.82
Commencement Date: 1.10.82: Government Gazette 22.9.82 p. 3121
Current State: All of Act in operation

Environment Protection (Lead in Petrol) Act 1982, No. 9760/1982

Assent Date: 13.7.82
Commencement Date: 13.7.82
Current State: All of Act in operation

Environment Protection (Air Pollution Control) Act 1982, No. 9803/1982

Assent Date: 23.11.82
Commencement Date: 8.12.82: Government Gazette 7.12.82 p. 399
Current State: All of Act in operation

Environment Protection (Amendment) Act 1983, No. 9988/1983

Assent Date: 6.12.83
Commencement Date: 6.12.83
Current State: All of Act in operation

Environment Protection (Unleaded Petrol) Act 1984, No. 10037/1984

Assent Date: 10.4.84
Commencement Date: 10.4.84
Current State: All of Act in operation

Water (Central Management Restructuring) Act 1984, No. 10081/1984

Assent Date: 15.5.84
Commencement Date: 1.7.84: Government Gazette 20.6.84 p. 1937
Current State: All of Act in operation

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Environment Protection (Review) Act 1984, No. 10092/1984 (as amended by No. 10160/1984)

Assent Date: 22.5.84
Commencement Date: Ss 1–3 (impliedly), 4–7, 9(3), 12(3)(b), 13–18, 20–30 on 1.7.84; ss 8, 9(1)(2), 10, 11, 12(1)–(3)(a), 19 on 1.1.85; Government Gazette 27.6.84 p. 2038
Current State: All of Act in operation

Environment Protection (General Amendment) Act 1984, No. 10160/1984

Assent Date: 20.11.84
Commencement Date: 20.11.84
Current State: All of Act in operation

Environment Protection (Industrial Waste) Act 1985, No. 10261/1985

(as amended by No. 22/1987)

Assent Date: 10.12.85
Commencement Date: Ss 4, 5(a)(b), 6–8(1)(2), 9–18, 21–28, 29(1)–(3), 30–39 on 1.1.86; ss 19, 20 on 1.3.86; Government Gazette 18.12.85 p. 4641; s. 8(3) on 16.5.94; Government Gazette 12.5.94 p. 1120; ss 5(c), 29(4) on 1.11.01; Special Gazette (No. 183) 31.10.01 p. 5
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Health (Amendment) Act 1985, No. 10262/1985

Assent Date: 10.12.85
Commencement Date: S. 4 on 1.3.86; Government Gazette 26.2.86 p. 451
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Courts Amendment Act 1986, No. 16/1986

Assent Date: 22.4.86
Commencement Date: S. 30 on 1.7.86; Government Gazette 25.6.86 p. 2180
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Road Safety Act 1986, No. 127/1986

Assent Date: 23.12.86
Commencement Date: S. 102(Sch. 4 items 8.1–8.6) on 1.3.87; Government Gazette 25.2.87 p. 445
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Planning Appeals (Amendment) Act 1987, No. 9/1987

Assent Date: 28.4.87
Commencement Date: 1.8.87; Government Gazette 29.7.87 p. 1992
Current State: All of Act in operation

Environment Protection (Amendment) Act 1987, No. 22/1987

Assent Date: 12.5.87
Commencement Date: S. 23 on 10.12.85; s. 2(2); rest of Act on 1.6.87; Government Gazette 20.5.87 p. 1156
Current State: All of Act in operation

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Planning and Environment Act 1987, No. 45/1987 (as amended by No. 5/1988)

Assent Date: 27.5.87
Commencement Date: S. 205(Sch. items 19–24) on 16.2.88: Government Gazette 10.2.88 p. 218
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection (Amendment) Act 1988, No. 20/1988

Assent Date: 17.5.88
Commencement Date: 17.5.88
Current State: All of Act in operation

Health (General Amendment) Act 1988, No. 48/1988 (as amended by Nos 1/1989, 87/1989)

Assent Date: 24.5.88
Commencement Date: S. 40 on 1.7.90: Government Gazette 11.4.90 p. 1130
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

State Superannuation Act 1988, No. 50/1988

Assent Date: 24.5.88
Commencement Date: S. 93(3) on 1.7.87: s. 2(1); s. 93(4) on 27.11.87: s. 2(2); Pt 1, Pt 6 Div. 2, s. 91 on 1.1.88: s. 2(3); rest of Act on 1.7.88: Government Gazette 1.6.88 p. 1487
Current State: All of Act in operation

Marine Act 1988, No. 52/1988

Assent Date: 31.5.88
Commencement Date: All of Act (*except* s. 159(4)) on 20.12.88: Special Gazette (No. 105) 20.12.88 p. 1; s. 159(4) on 1.7.89: Government Gazette 28.6.89 p. 1558
Current State: All of Act in operation

Local Government (Consequential Provisions) Act 1989, No. 12/1989

Assent Date: 9.5.89
Commencement Date: S. 4(1)(Sch. 2 items 37.2–37.7) on 1.11.89: Government Gazette 1.11.89 p. 2798; Sch. 2 items 37.1, 37.8 on 1.10.92: Government Gazette 23.9.92 p. 2789
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Transfer of Land (Computer Register) Act 1989, No. 18/1989

Assent Date: 16.5.89
Commencement Date: 3.2.92: Government Gazette 18.12.91 p. 3488
Current State: All of Act in operation

Environment Protection (Ozone Layer) Act 1989, No. 30/1989

Assent Date: 6.6.89
Commencement Date: 6.6.89
Current State: All of Act in operation

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Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Water (Consequential Amendments) Act 1989, No. 81/1989

Assent Date: 5.12.89
Commencement Date: 1.11.90: Government Gazette 15.8.90 p. 2473
Current State: All of Act in operation

Environment Protection (General Amendment) Act 1989, No. 87/1989

(as amended by No. 86/1990)

Assent Date: 5.12.89
Commencement Date: Ss 4–8, 10–64 on 5.12.89: s. 2(1); s. 9 on 1.11.01: Special Gazette (No. 183) 31.10.01 p. 5
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection (Fees and Penalties) Act 1990, No. 86/1990

Assent Date: 11.12.90
Commencement Date: S. 13(2) on 5.12.89: s. 10 of Act No. 53/1992; rest of Act on 1.1.91: Government Gazette 19.12.90 p. 3745
Current State: All of Act in operation

Mineral Resources Development Act 1990, No. 92/1990

Assent Date: 18.12.90
Commencement Date: S. 128(Sch. 1 items 8.1–8.7) on 6.11.91: Government Gazette 30.10.91 p. 2970
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Sentencing Act 1991, No. 49/1991

Assent Date: 25.6.91
Commencement Date: 22.4.92: Government Gazette 15.4.92 p. 898
Current State: All of Act in operation

Litter (Amendment) Act 1991, No. 82/1991

Assent Date: 3.12.91
Commencement Date: S. 20 on 1.2.92: Government Gazette 22.1.92 pp 115, 116
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection (Resource Recovery) Act 1992, No. 53/1992

Assent Date: 30.6.92
Commencement Date: 16.7.92: Government Gazette 15.7.92 p. 1779
Current State: All of Act in operation

Unclaimed Moneys (Amendment) Act 1993, No. 70/1993

Assent Date: 5.10.93
Commencement Date: 5.10.93
Current State: All of Act in operation

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Building Act 1993, No. 126/1993

Assent Date: 14.12.93
Commencement Date: S. 264(Sch. 5 item 7.1) on 1.7.94: Special Gazette (No. 42) 1.7.94 p. 1
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Financial Management Act 1994, No. 18/1994 (as amended by No. 43/1995)

Assent Date: 10.5.94
Commencement Date: Pt 1 (ss 1–8), ss 60, 61 on 10.5.94: s. 2(1); rest of Act on 1.7.94: s. 2(2)
Current State: All of Act in operation

Environment Protection (General Amendment) Act 1994, No. 20/1994

Assent Date: 17.5.94
Commencement Date: Ss 1, 2 on 17.5.94: s. 2(1); rest of Act on 1.7.94: s. 2(3)
Current State: All of Act in operation

Financial Management (Consequential Amendments) Act 1994, No. 31/1994

Assent Date: 31.5.94
Commencement Date: S. 4(Sch. 2 items 29.1, 29.2) on 1.1.95: Government Gazette 28.7.94 p. 2055
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Local Government (Amendment) Act 1994, No. 99/1994

Assent Date: 13.12.94
Commencement Date: Ss 28–30 on 13.12.94: s. 2(1)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

National Environment Protection Council (Victoria) Act 1995, No. 10/1995

Assent Date: 26.4.95
Commencement Date: Ss 65–69 on 15.9.95: Government Gazette 14.9.95 p. 2403
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Equal Opportunity Act 1995, No. 42/1995

Assent Date: 14.6.95
Commencement Date: S. 224 on 5.10.95: Government Gazette 28.9.95 p. 2731; Sch. 2 item 15 on 1.1.96: Government Gazette 21.12.95 p. 3571
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Port Services Act 1995, No. 82/1995

Assent Date: 28.11.95
Commencement Date: S. 203 on 14.12.95: Government Gazette 14.12.95 p. 3488
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

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Legal Practice Act 1996, No. 35/1996

Assent Date: 6.11.96
Commencement Date: S. 453(Sch. 1 item 26) on 1.1.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection (Amendment) Act 1996, No. 65/1996

Assent Date: 17.12.96
Commencement Date: Ss 4, 5, 7–12, 18, 22, 28, 30 on 17.12.96: s. 2(1); ss 6, 20, 21, 24(2), 25–27 on 17.12.96: Special Gazette (No. 142) 17.12.96 p. 1; ss 3, 24(1) on 21.1.97: Special Gazette (No. 7) 21.1.97 p. 1, ss 13–17, 19, 23, 29 on 1.7.97: s. 2(4)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

(as amended by No. 12/1999)

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 items 27.1–27.20) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Road Safety (Amendment) Act 1998, No. 57/1998

Assent Date: 13.10.98
Commencement Date: S. 28(1) on 1.5.99: Government Gazette 18.3.99 p. 665
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Transfer of Land (Single Register) Act 1998, No. 85/1998

Assent Date: 17.11.98
Commencement Date: S. 24(Sch item 21) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Local Government (Governance and Melton) Act 1998, No. 86/1998

Assent Date: 17.11.98
Commencement Date: S. 20 on 1.7.99: Government Gazette 17.6.99 p. 1406
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

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Environment Protection (Amendment) Act 1999, No. 2/1999 (as amended by No. 49/2000)

Assent Date: 28.4.99
Commencement Date: Ss 3–5, 10–14, 16, 19(a), 20 on 26.5.99: s. 2(2); ss 6–9 on 1.7.99: s. 2(3); ss 15, 17, 18, 19(b) on 1.10.00: s. 2(5)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Financial Sector Reform (Victoria) Act 1999, No. 37/1999

Assent Date: 8.6.99
Commencement Date: S. 58(Sch. 3 item 5) on 1.7.99: Special Gazette (No. 97) 30.6.99 p. 2
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection (Enforcement and Penalties) Act 2000, No. 49/2000

Assent Date: 14.6.00
Commencement Date: Ss 9, 10, 12, 15, 16, 18, 22, 23, 25–27, 29 on 15.6.00: s. 2(1); ss 19–21 on 1.7.00: s. 2(2); ss 3, 5–7, 11, 13, 14, 17, 24 on 9.7.00: s. 2(3)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection (Liveable Neighbourhoods) Act 2000, No. 7/2001

Assent Date: 8.5.01
Commencement Date: S. 23 on 1.10.00: s. 2(2); ss 3–7, 15–22 on 9.5.01: s. 2(1); ss 8–14 on 1.7.01: s. 2(4)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001

Assent Date: 8.5.01
Commencement Date: S. 3(Sch. item 23) on 1.6.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 37) on 15.7.01: s. 2
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Corporations (Financial Services Reform Amendments) Act 2002, No. 9/2002

Assent Date: 23.4.02
Commencement Date: S. 3(Sch. item 5) on 23.4.02: s. 2
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

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Statute Law (Further Revision) Act 2002, No. 11/2002

Assent Date: 23.4.02
Commencement Date: S. 3(Sch. 1 item 22) on 24.4.02: s. 2(1)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection (Resource Efficiency) Act 2002, No. 37/2002

Assent Date: 18.6.02
Commencement Date: Ss 3–12, 38–49, 52 on 19.6.02: s. 2(1); ss 13–30, 32, 33 on 1.7.02: s. 2(2); ss 34–37 on 15.10.02: Government Gazette 10.10.02 p. 2716
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Victorian Urban Development Authority Act 2003, No. 59/2003

Assent Date: 16.6.03
Commencement Date: S. 118 on 1.8.03: Government Gazette 31.7.03 p. 2125
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Monetary Units Act 2004, No. 10/2004

Assent Date: 11.5.04
Commencement Date: S. 14 on 1.7.04: s. 2(2)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Planning and Environment (General Amendment) Act 2004, No. 81/2004

Assent Date: 16.11.04
Commencement Date: S. 47 on 23.5.05: Government Gazette 19.5.05 p. 930
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Occupational Health and Safety Act 2004, No. 107/2004

Assent Date: 21.12.04
Commencement Date: S. 179 on 1.7.05: s. 3(1)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 68) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 37) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

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Radiation Act 2005, No. 62/2005

Assent Date: 20.9.05
Commencement Date: S. 142 on 1.9.07: s. 2(2)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Sustainability Victoria Act 2005, No. 65/2005

Assent Date: 20.9.05
Commencement Date: Ss 23–25 on 1.10.05: Government Gazette 29.9.05 p. 2171
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Water (Resource Management) Act 2005, No. 99/2005

Assent Date: 7.12.05
Commencement Date: S. 72 on 3.8.06: Special Gazette (No. 191) 2.8.06 p. 1
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 15) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection (Amendment) Act 2006, No. 61/2006

Assent Date: 29.8.06
Commencement Date: Ss 33–40, 45–53, 55–65 on 30.8.06: s. 2(1); ss 41, 43 on 13.9.06: Special Gazette (No. 243) 13.9.06 p. 1; ss 42, 44 on 1.10.06: Government Gazette 28.9.06 p. 2048; ss 3–32 on 1.7.07: s. 2(2); s. 54 on 1.7.07: Government Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006

Assent Date: 29.8.06
Commencement Date: Ss 59, 60, 61(Sch. item 11) on 30.8.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

City of Melbourne and Docklands Acts (Governance) Act 2006, No. 74/2006

Assent Date: 10.10.06
Commencement Date: S. 25 on 1.7.07: Government Gazette 28.6.07 p. 1303
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

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Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 33) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Motor Car Traders Amendment Act 2008, No. 4/2008

Assent Date: 4.3.08
Commencement Date: S. 32(Sch. item 8) on 1.12.08: s. 2(2)
Current State: The information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection Amendment (Landfill Levies) Act 2008, No. 20/2008

Assent Date: 21.5.08
Commencement Date: S. 4 on 1.7.07: s. 2(2); s. 3 on 22.5.08: s. 2(1); s. 5 on 1.7.08: s. 2(3)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Unclaimed Money Act 2008, No. 44/2008

Assent Date: 26.8.08
Commencement Date: S. 108 on 1.1.09: s. 2(2)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 50) on 1.1.10: Government Gazette 10.12.09 p. 3215
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection Amendment (Landfill Levies) Act 2010, No. 20/2010

Assent Date: 1.6.10
Commencement Date: S. 3 on 1.7.10: s. 2
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Health and Human Services Legislation Amendment Act 2010, No. 29/2010

Assent Date: 8.6.10
Commencement Date: Ss 37–42 on 1.7.10: Special Gazette (No. 235) 23.6.10 p. 1
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Climate Change Act 2010, No. 54/2010

Assent Date: 14.9.10
Commencement Date: Ss 66–72 on 1.7.11: s. 2(2)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

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Local Government and Planning Legislation Amendment Act 2010, No. 58/2010

Assent Date: 14.9.10
Commencement Date: S. 48 on 24.9.10: Government Gazette 23.9.10 p. 2186
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Marine Safety Act 2010, No. 65/2010

Assent Date: 28.9.10
Commencement Date: S. 420(Sch. 3 item 6) on 1.7.12: s. 2(2)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Subordinate Legislation Amendment Act 2010, No. 78/2010

Assent Date: 19.10.10
Commencement Date: S. 24(Sch. 1 item 13) on 1.1.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection Amendment (Landfill Levies) Act 2011, No. 25/2011

Assent Date: 21.6.11
Commencement Date: S. 3 on 1.7.11: s. 2
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Justice Legislation Amendment (Protective Services Officers) Act 2011, No. 43/2011

Assent Date: 6.9.11
Commencement Date: S. 21 on 28.11.11: Special Gazette (No. 379) 22.11.11 p. 1
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Water Amendment (Governance and Other Reforms) Act 2012, No. 17/2012

Assent Date: 3.4.12
Commencement Date: S. 85 on 1.7.12: Special Gazette (No. 172) 29.5.12 p. 1
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Statute Law Revision Act 2012, No. 43/2012

Assent Date: 27.6.12
Commencement Date: S. 3(Sch. item 16) on 28.6.12: s. 2(1)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Climate Change and Environment Protection Amendment Act 2012, No. 78/2012

Assent Date: 18.12.12
Commencement Date: Ss 19–26 on 13.2.13: Special Gazette (No. 44) 12.2.13 p. 1
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Environment Protection Act 1970
No. 8056 of 1970
Endnotes

Integrity and Accountability Legislation Amendment Act 2012, No. 82/2012

Assent Date: 18.12.12
Commencement Date: Ss 174–176 on 10.2.13: Special Gazette (No. 32)
6.2.13 p. 2; s. 308 on 11.2.13: s. 2(5)
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

**Marine (Domestic Commercial Vessel National Law Application) Act 2013,
No. 36/2013**

Assent Date: 18.6.13
Commencement Date: S. 81 on 1.7.13: Special Gazette (No. 226) 25.6.13 p. 1
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

**Public Administration Amendment (Public Sector Improvement) Act 2014,
No. 6/2014**

Assent Date: 11.2.14
Commencement Date: S. 16 on 1.4.14: Special Gazette (No. 65) 4.3.14
p. 1
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

Legal Profession Uniform Law Application Act 2014, No. 17/2014

Assent Date: 25.3.14
Commencement Date: S. 160(Sch. 2 item 37) on 1.7.15: Special Gazette
(No. 151) 16.6.15 p. 1
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

**Environment Protection and Sustainability Victoria Amendment Act 2014,
No. 20/2014 (as amended by No. 21/2015)**

Assent Date: 1.4.14
Commencement Date: Ss 3–13 on 2.4.14: s. 2(1); ss 14(2), 15(1), 17, 18,
24, 30, 32 on 30.6.14: Special Gazette (No. 178)
10.6.14 p. 1; ss 14(1)(3)(4)(5), 15(2), 16, 19–21, 31
on 1.8.14: Special Gazette (No. 188) 17.6.14. p. 1;
ss 22, 23, 25–29 on 1.7.15: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

**Victoria Police Amendment (Consequential and Other Matters) Act 2014,
No. 37/2014**

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 56) on 1.7.14: Special Gazette
(No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

Environment Protection Act 1970
No. 8056 of 1970
Endnotes

**Integrity and Accountability Legislation Amendment (A Stronger System)
Act 2016, No. 30/2016**

Assent Date: 31.5.16
Commencement Date: S. 80(2) on 1.7.16: Special Gazette (No. 194)
21.6.16 p. 1; s. 80(1) on 1.12.16: Special Gazette
(No. 194) 21.6.16 p. 1
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

Victorian Fisheries Authority Act 2016, No. 68/2016

Assent Date: 15.11.16
Commencement Date: S. 162 on 1.7.17: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

Climate Change Act 2017, No. 5/2017

Assent Date: 28.2.17
Commencement Date: S. 101 on 1.11.17: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

**Urban Renewal Authority Victoria Amendment (Development Victoria)
Act 2017, No. 10/2017**

Assent Date: 27.3.17
Commencement Date: S. 34 on 1.4.17: Special Gazette (No. 94) 27.3.17
p. 1
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

Environment Protection Act 2017, No. 51/2017

Assent Date: 24.10.17
Commencement Date: Ss 30–32 on 1.1.18: Special Gazette (No. 433)
12.12.17 p. 1; ss 27–29, 33–44 on 1.7.18: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

Parks and Crown Land Legislation Amendment Act 2017, No. 53/2017

Assent Date: 24.10.17
Commencement Date: S. 13 on 15.12.17: Special Gazette (No. 433) 12.12.17
p. 1
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

**Commercial Passenger Vehicle Industry Amendment (Further Reforms)
Act 2017, No. 63/2017**

Assent Date: 19.12.17
Commencement Date: S. 21(Sch. 1 item 3) on 2.7.18: Special Gazette
(No. 248) 29.5.18 p. 1
Current State: This information relates only to the provision/s
amending the **Environment Protection Act 1970**

Environment Protection Act 1970
No. 8056 of 1970
Endnotes

Environment Protection Amendment Act 2019, No. 27/2019

Assent Date: 10.9.19
Commencement Date: Ss 4–9 on 1.11.19: s. 2(3)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Primary Industries Legislation Amendment Act 2019, No. 40/2019

Assent Date: 6.11.19
Commencement Date: S. 100 on 1.2.20: s. 2(2)
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Transport Legislation Amendment Act 2019, No. 49/2019

Assent Date: 3.12.19
Commencement Date: S. 186(Sch. 4 item 17) on 1.1.20: Special Gazette (No. 514) 10.12.19 p. 1
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

Local Government Act 2020, No. 9/2020

Assent Date: 24.3.20
Commencement Date: S. 390(Sch. 1 item 34) on 6.4.20: Special Gazette (No. 150) 24.3.20 p. 1
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

State Taxation Acts Amendment Act 2020, No. 47/2020

Assent Date: 15.12.20
Commencement Date: Ss 22–25 on 16.12.20: s. 2
Current State: This information relates only to the provision/s amending the **Environment Protection Act 1970**

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3 Amendments Not in Operation

This version does not contain amendments that are not yet in operation.

4 Explanatory details

¹ S. 43A(2)–(4):

S. 43A(2) inserted by No. 22/1987 s. 12(1)(b), amended by No. 20/1988 ss 13(a), 14(b), repealed by No. 87/1989 s. 33.

S. 43A(2A) inserted by No. 20/1988 s. 13(b), repealed by No. 87/1989 s. 33.

S. 43A(3) inserted by No. 22/1987 s. 12(1)(b), amended by Nos 20/1988 s. 13(c), 57/1989 s. 3(Sch. item 64.3(a)(i)(ii)), repealed by No. 87/1989 s. 33.

S. 43A(4) inserted by No. 22/1987 s. 12(1)(b), amended by No. 57/1989 s. 3(Sch. item 64.3(b)), repealed by No. 87/1989 s. 33.

² S. 48B(2)–(2C):

S. 48B(2) amended by Nos 10092 s. 15(2)(b), 127/1986 s. 102(Sch. 4 item 8.2), repealed by No. 87/1989 s. 37.

S. 48B(2A) inserted by No. 10261 s. 21, amended by Nos 127/1986 s. 102(Sch. 4 item 8.2), 22/1987 s. 12(2)(a), repealed by No. 87/1989 s. 37.

S. 48B(2B) inserted by No. 22/1987 s. 12(2)(b), amended by No. 57/1989 s. 3(Sch. item 64.5(a)(i)(ii)), repealed by No. 87/1989 s. 37.

S. 48B(2C) inserted by No. 22/1987 s. 12(2)(b), amended by No. 57/1989 s. 3(Sch. item 64.5(b)), repealed by No. 87/1989 s. 37.

³ Pt 9 (Heading and ss 49–53):

Pt 9 (Heading) repealed by No. 20/1994 s. 17(e).

S. 49 repealed by No. 53/1992 s. 6(2).

S. 50 amended by No. 10092 s. 18(1), repealed by No. 82/1991 s. 20.

S. 51 amended by No. 10092 s. 18(2), repealed by No. 82/1991 s. 20.

S. 52 amended by No. 87/1989 s. 38(a)–(c), repealed by No. 82/1991 s. 20.

S. 53 amended by Nos 9758 s. 2, 87/1989 s. 7(i), 86/1990 s. 5(g), repealed by No. 82/1991 s. 20.

⁴ S. 55(3CB)–(3CD):

S. 55(3CB) inserted by No. 10261 s. 25(2), amended by No. 22/1987 s. 12(3)(a)(c), repealed by No. 87/1989 s. 42(b).

S. 55(3CC) inserted by No. 22/1987 s. 12(3)(b), repealed by No. 87/1989 s. 42(b).

S. 55(3CD) inserted by No. 22/1987 s. 12(3)(b), repealed by No. 87/1989 s. 42(b).